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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1920.

No. 239.

UNITED MINE WORKERS OF AMERICA, ET AL., PLAINTIFFS IN ERROR,
vs.
CORONADO COAL COMPANY, ET AL., DEFENDANTS IN ERROR.

IN ERROR TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

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Bob Bly	1755	1171
W. P. Upton	1761	1176
William Willett	1767	1180
Mrs. W. H. Argo	1769	1182
William H. Argo	1771	1183
J. W. Sylsberry	1789	1196
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John T. Allison	1872	1253
Ewing Thomas, Deposition of	1882	1261
English Dougherty	1909	1280
Andrew Dougherty	1938	1301
Plaintiffs' Exhibit 42, Slip of Paper bearing Address,—C. E. Pattie, Box 376, Hartford, Arkansas	1951	1310
Plaintiffs' Exhibit 43, Slip of Paper bearing Addresses,—H. M. Strope, Frank Sharp, Box 672, Hartford, Arkansas	1951	1310
Dr. Oscar M. Neill	1955	1312
Mrs. Mahala Barnes	1961	1316
C. H. Langdorf	1963	1317
William Thomas, Deposition of	1984	1332
J. R. Bailey	2013	1352
Arch Caldwell	2033	1365
Ellet T. Goddard	2044	1372
James A. Murray	2045	1373
George A. Davis	2050	1376
J. Curtis Bohannan	2058	1381
William T. White	2061	1383
William Saunders, Deposition of	2073	1392
W. T. Forrester	2088	1402
Mrs. John Degen	2093	1405
James H. Meeks	2104	1413
Elmer Bohannan	2115	1421
John W. Baker	2118	1423
Charley Cheek, Deposition of	2121	1425
William V. Womack	2156	1449
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Charles Suttles, Deposition of	2174	1463
Mrs. Rhelda Perry, Deposition of	2195	1476
A. W. McGee, Deposition of	2220	1493
Lee Bishop	2224	1495
James O. Johnson, Deposition of	2228	1498
Mrs. Preddro Brown	2250	1514
Harry Dunlap	2256	1518
Levi Brown	2270	1527
J. L. Briggs	2283	1536
Ewell Doughit	2286	1538
Mike Doughit	2293	1542
Fred Francis	2298	1545
David Stanley	2306	1551
Melvin Roberts	2311	1554
S. T. Moore	2314	1556
Joseph A. Parrish, Deposition of	2323	1562
Ed Parrish, Stipulation as to	2335	1571
Mrs. Eva Trannell, Stipulation as to	2336	1571

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Hannibal Green	2355	1584
Joseph A. McConnell	2361	1588
Mike Doughit, Re-called	2368	1593
Charles L. Reierson, Deposition of	2369	1594
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10, Telegram, H. B. Hill to Remington Arms-Union Metallic Cartridge Co., June 18, 1914	2393	1611
11, Telegram, Remington Arms-Union Metallic Cartridge Co., to H. B. Hill, June 18, 1914	2394	1612
1, Telegram, Remington Arms-Union Metallic Cartridge Co., to H. B. Hill, June 10, 1914	2395	1613
2, Telegram, Remington Arms-Union Metallic Cartridge Co., to H. B. Hill, June 10, 1914	2395	1613
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4, Letter, Remington Arms-Union Metallic Cartridge Co. to H. B. Hill, June 10, 1914	2396	1613
5, Order to the Remington Arms-Union Metallic Cartridge Co., from H. B. Hill, June 10, 1914	2397	1614
8, Order to the Remington Arms-Union Metallic Cartridge Co., from H. B. Hill, June 17, 1914	2398	1615
9, Order to the Remington Arms-Union Metallic Cartridge Co., from H. B. Hill, June 17, 1914	2398	1615
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Lee Rogers	2435	1641
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Mrs. Fannie Briggs	2440	1645
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Garland C. Choate	2443	1647
Harry B. Hill, Deposition of	2448	1651
Sam Thomas	2463	1659
Leo S. Schell, Deposition of	2476	1668
John Laws	2502	1686
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Invoice Atkinson-Williams Hardware Company, to John Mastell, $230.00, June 13, 1914	2505	1688
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Henry Edward Morgan	2509	1690
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Bascom Allen	2518	1697
S. T. Brown	2522	1699
E. Lee Harmon	2525	1701
S. T. Brown, recalled	2534	1707

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William D. Tharel	2536	1708
Bud Porter	2541	1711
S. P. Epperson	2544	1715
William F. Meeks, Deposition of	2549	1718
J. E. Boring	2582	1740
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W. R. Eustice	2593	1748
I. L. Cole	2596	1750
J. F. Rauser	2600	1753
Charles Baskins	2604	1755
W. J. Smith	2608	1758
Mrs. Sabitha Smith	2610	1759
Miss Millie Smith	2612	1761
J. B. Atkisson	2615	1762
Hugh R. Rankin	2619	1765
Paul C. Hamilton	2622	1767
Charles Dalton	2630	1772
Pleasant P. Baker	2634	1775
John S. Shaleen	2640	1779
Clarence A. Shaleen	2648	1785
Frank M. Morgan	2652	1787
E. F. Hackett, Deposition of	2654	1789
D. A. Steele	2675	1804
J. J. Johnson	2679	1806
F. A. Youmans	2690	1814
Roger B. Hull	2694	1817
F. A. Youmans, recalled	2696	1818
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A. M. Chitwood	2701	1821
Will Bohannan	2706	1824
E. G. Castell	2709	1826
D. VanHecke	2713	1829
James R. Cole	2714	1829
Sid Johnson	2716	1831
J. N. Hamilton	2718	1832
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Plaintiffs' Exhibit 60, Check of United Mine Workers of America, District 21, to Hayden Sporting Goods Co., $411.99, June 30, 1914	2725	1836
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M. W. Weston, Deposition of	2739	1845
M. W. Weston, Deposition of, recalled	2751	1854
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W. B. Kissinger, Deposition of	2782	1874
H. H. York, Deposition of	2791	1880
Hilbert Stroupe	2803	1888
W. C. Harp, Deposition of	2815	1897
George Simmons, Deposition of	2822	1902
Howard H. Redner	2837	1912
Rufus H. Lamb	2840	1914
Howard H. Redner, recalled	2845	1918
M. B. Willsley	2847	1919
M. O. Willsley	2858	1926
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Amos S. Johnson	2862	1928
John E. Finney	2865	1931
Frank Pigg	2867	1932
Heber Denman	2871	1935
Edward J. M. Peake	3022	2039
W. E. Beaty	3026	2042
H. C. Rice	3030	2044
E. W. Hogan	3033	2046
J. P. King	3037	2049
William A. Evans	3043	2053
J. G. Peterbaugh	3044	2054
B. G. Moore	3056	2062
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103 Contract between Cherokee Construction Co. and Mammoth Vein Coal Co., June 26, 1909	3090	2090
104, Contract of Lease between Mrs. Belle McEachin, et al., and Missouri Coal Company, May 1, 1907	3091	2091
120, Contract of Lease between Mammoth Vein Coal Co. and Prairie Creek Coal Mining Co., Mareh 27, 1911	3101	2099
121, Contract of Lease between the Kali-Inla Coal Co. and the Mammoth Vein Coal Co., January 1, 1912	3103	2100
123, Contract of Lease between the Kali-Inla Coal Co., and the Mammoth Vein Coal Co., November 30, 1910	3105	2102
122, Assignment of Contract of March 27, 1911, between Mammoth Vein Coal Co. and Prairie Creek Coal Co. to Kali-Inla Coal Co	3107	2103
124, Contract of Lease between Denman Coal Co. and Mammoth Vein Coal Co., October 5, 1910	3108	2104
108, Contract of Lease between T. W. M. Boone and Wife and the Prairie Creek Coal Co., January 13, 1903	3110	2105
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Acceptance and Agreement by the Sebastian Coal Co. to the Assignment of Lease from Sebastian Coal Co. to Franklin Bache, October 5, 1909	3117	2111
Assignment of Contract of Lease between Sebastian County Coal Co. and Franklin Bache to Coronado Coal Co., January 1, 1907	3117	2111
112, Contract of Lease between Sebastian County Coal Co. and Franklin Bache, January 1, 1907	3120	2112
109, Assignment of Contract of Lease between T. W. M. Boone and Wife, and the Prairie Creek Coal Co. to Sebastian County Coal Co., November 22, 1904	3134	2121
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114, Contract between Arkansas Coal and Mining Co., Smokeless Fuel Co. and Coronado Coal Co., December 23, 1913	3147	2130
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H. H. Martin	3813	2591
Jessie Thompson	3814	2592
Mrs. Sam Dorman	3821	2599
Mary Mastell	3833	2607
Mary Manick	3837	2610
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Fred Evans	4137	2812

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3821 MRS. SAM DORMAN, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Grant:

Q. Your name is Mrs. Sam Dorman? A. Yes, sir.

Q. Now speak loud so these gentlemen can hear you. You live at Prairie Creek? A. Yes, sir.

Q. You lived there in July, 1917, did you,—I mean 1914?

A. Yes, sir.

Q. Did you live near Prairie Creek Mine No. 4?

A. Yes, sir, right close to it; yes, sir, we did.

Q. About what distance from that mine?

A. I don't know, I never did measure it.

Q. How far did you live from the depot station there at Prairie Creek? A. Not but just a little ways.

Q. Were you between Prairie Creek Mine No. 4 and the depot? A. Yes, sir.

Q. The station? A. Yes, sir.

Q. Right on the road that was traveled going from the mine to the station? A. Yes, sir.

Q. Did you see the non-union people pass your place going from the station to the mine? A. Yes, sir.

Q. About how frequently did they go by?

A. Well, while they were getting their freight off at this station, they passed every night. They had to go all around our acre; all the way around; we have three porches, we have a back porch and a front porch and another back porch, and they had to go clear around.

Q. What was the conduct of these men when they
3822 would pass your place there?

A. They would be handling their guns, kind of funny like they were going to shoot, it looked like they were going to scare us, and they would curse and swear, and the guard sitting on the front seat, he always sit on the front seat.

Q. Sitting on the front seat traveling in the wagon?

A. Yes, sir, sometimes two, and sometimes one.

Q. Did they use vulgar language around there?

A. I don't know if the guards did, but the scabs did.

Q. The non-union men going on that road were cursing?

A. Yes, sir.

Q. Was that frequent? A. Every night.

Q. Did they ever point any of the guns at you, or your mother?

A. Yes, sir, they did, and mother told them to please handle their guns carefully, because it excited her.

Q. Was your mother sick? A. Yes, sir.

Q. She died shortly after that?

A. The 11th of October afterwards.

Q. Was there ever any shooting over there from these non-union people that excited you people, and got you excited, and you went into the cellar? A. Yes, sir.

Q. Explain that to the Court and jury.

A. That was on the 17th day of July, we went in the cellar; they were shooting, and my little sister was there, and my other sister, and she had four children and I had three at the time, and Elberta didn't want to leave mamma at all, and she stayed as long as she could, and when the guns began shooting, she stayed as long as she could, and then she taken my little baby, my girl and went over the hill to Jim Keefer's, she just went over hollering and screaming, and we
3823 were all crying, and then we went into the cellar, after they began to shoot. Me and my brother took my mother into the cellar; she had a lot of different kinds of medicine, and I went back after it and Charlie wouldn't go back down in the cellar again, and as soon as I got to the cellar door, I kind of stopped there, and I had not gotten in there, and there was a bullet just skipped over my head and then I got into the cellar, and I didn't get out again until about 3:00 or 4:00 o'clock, when we had to take mother out.

Q. What time did the shooting begin that day?

A. Early in the morning.

Q. Before daylight or after? A. After daylight.

Q. Where did the shooting come from?

A. From that bull pen.

Q. Were any shots fired from the outside before the shooting from the inside? A. No, sir, none that I know of.

Q. How long did that shooting from the inside of the Bache-Denman properties at Mine No. 4 continue before the shooting from the outside?

A. I don't know, I never did hear any shooting from the outside, because we lived a quarter from the school house, and there was nobody around close to our house anywhere.

Q. No one came up there?

A. No, sir, I didn't hear any shooting around our house, except what came from the bull pen; we have a bridge close to our house, it was dry then, and after we came out of the cellar, it must have been half past two or three o'clock, and we could see the bullets just hopping the dust up around that bridge.

Q. The people,—
A. (Interrupting.) From the bull pen were doing it.
3824 Q. People you had seen going in and out of there?
A. Yes, sir.
Q. Do you know the Green women? A. Yes, sir.
Q. Did you ever see them going in and out of there?
A. Yes, sir,—no, I never seen them go out, but I have seen them go in.
Q. Were they people that had a reputation, good or bad there? A. I have heard they were bad.

Mr. McDonough: Object to that, and move to exclude it.

The Court: What was that?

Mr. McDonough: The question was asked whether the Green women's reputation was good or bad, and I don't see on what ground that would be admissible. There are only two ways of impeaching a witness under the rules of law, and one is by showing they committed a crime, and the other by showing that their general reputation in the community in which they were living was bad.

Mr. Neal: To show that these guards and employees at the Bache-Denman mines permitted women of lewd character to enter into those mines down there, and associate with them, and to show a general condition of lawlessness existed within that enclosure, on the part of these men that were put down there supposedly as guards.

Mr. McDonough: If that supposition were true, it did not authorize these defendants to murder these men and destroy that property.

The Court: No, the Court will so instruct the jury, but there is another question of fact, and it will be admitted. The objection is overruled.

To which ruling of the Court, the plaintiffs, and each of
3825 them, at the time duly excepted and still except.

Q. Do you know their general reputation in that community for chastity, what people generally said about them?
A. Yes, sir.
Q. Was that good or bad? A. It was very bad.
Q. You may tell us, if you know, whether or not there was a great deal of shooting there from the stockade?
A. When?
Q. From the time the non-union men first went there up to the 17th of July.

A. I heard shooting down there, but not to amount to anything; once in a while you would hear a gun.

Q. How many times did you leave home on account of shooting there, if you left at any time?

A. We left there twice.

Q. When was that? A. I don't know.

Q. About how long before the 17th of July, as near as you can get it?

A. I don't know, I never tried to keep any account at all.

Q. Was it after the non-union men were put in there?

A. Yes, sir.

Q. Where did you go on those two occasions?

A. Over the hill to Keafers.

Q. That was before July 17th? A. Yes, sir.

Q. Now was there considerable shooting going on at that time, at those times when you left home? A. No, sir.

Q. What caused you to leave?

A. We just heard there was going to be trouble there, and we had better get away, and we went.

Q. There was going to be trouble there? A. Yes, sir.

Q. What was the character of the trouble that you
3826 were expecting? A. Shooting.

Q. Expecting Prairie Creek to be shot up?

A. Yes, sir.

Q. What were the rumors, and where did you get those rumors? A. Our brothers told us.

Q. And acting on that advice you left?

A. Yes, sir, and they helped get our mother away from there.

Q. Were you expecting the shooting to come from No. 4 Mine?

A. Yes, sir, that is where we were expecting it to come from.

Q. Did these non-union men ever curse you or your children, between April 1st and the 17th of July, and if so, when was that and what was said?

A. One time the children were playing in the road, or near the road in a ditch on the side, and they seen the scabs coming, and they had something, a plank or something, and when the scabs come up, they picked this up and throwed it across the ditch, and the children run across the ditch to get out of the way, I think, and he like to hit one of the children and I said, "Look out, you like to hit that kid" and he cursed and said, "I don't care if I kill every kid in the camp".

Q. He cursed? A. Yes, sir, he did.

Q. When was that?

A. That was while they were getting freight off at Prairie Creek, one evening.

Q. Between April 1st and the 17th of July?

A. Yes, sir.

Q. Did your sister Elberta report to you having been insulted at the school?

A. Yes, sir, and the school was also closed on account of it.

Mr. Grant: You may cross-examine.

Cross-Examination

By Mr. McDonough:

Q. Mrs. Dorman, you live there at the same place now,
3827 where you lived then? A. Yes, sir.

Q. Does your husband live there?

A. Yes, sir, he is with me now.

Q. Was he living there at that time?

A. No, sir, he was working at Sutter, Oklahoma.

Q. A coal miner? A. Yes, sir.

Q. Union miner? A. Yes, sir.

Q. What time did he leave home?

A. He left just as quick as they came out.

Q. Come out of what?

A. Of work, as quick as they come out.

Q. He was working at No. 4? A. No, at Mammoth Vein.

Q. He was working at Mammoth Vein? A. Yes, sir.

Q. When was it that they came out?

A. When they all come out, I dont' know when it was.

Q. What do you mean by "coming out"?

A. When they all come out, I don't know when it was.

Q. How is that? A. Suspension, I believe it was.

Q. Was there a strike?

A. I don't know whether it was a strike or suspension, they all quit work any way.

Q. Your husband quit work when the others quit work?

A. Yes, sir.

Q. And he went away some place else to mine coal?

A. Yes, sir, to get work.

Q. You don't recall whether it was in March or April that he left?

A. I believe that it was in March; I don't know, he left right away after they quit work up there.

Q. Did he leave before they opened the mine at No. 4 non-union, or open shop basis? A. Yes, sir.

Q. He left before that? A. Yes, sir.

Q. When did he come back?

3828 A. Well, he come back the last of April, I believe it was, 1917.

Q. What did he do then?
A. He went to work at a little pigeon hole down there run by John Mastell.
Q. And remained there during all of April after that?
A. This April 1917, he come back.
Q. He didn't come back in April 1914? A. No, sir.
Q. Was he there in April at all, 1914?
A. No, sir, he was not.
Q. Did he come back home in June 1914? A. No, sir.
Q. You didn't see him in June 1914?
A. Yes, sir, he came back on visits, but not to stay.
Q. He did come back to visit? A. Yes, sir, he did.
Q. How about July, 1914? A. He was not there.
Q. He was not there at all?
A. He didn't come home in 1914.
Q. He came home on a visit?
A. Not in that month, I don't think.
Q. Not in July? A. No, sir.
Q. How about the 17th of July? A. He was not there.
Q. How about the 16th? A. He was not there.
Q. You say he was not there that day? A. No, sir.
Q. You didn't have any word from him in that time?
A. Yes, sir,—no, not at that time, but we wrote and corresponded all the time.
Q. Mrs. Dorman, what direction was your home from the school house?
A. Well, I guess,—I don't know, it might be west, I don't know.
Q. Was it toward Mine No. 4, or away from Mine No. 4?
A. The mine and my house is about the same distance from the school house.
Q. On the same side of the school house?
A. No, the mine is kind of more to the front.
3829 Q. In going from your home, at that time to the mine, would you pass by the school house? A. No.
Q. What distance would you say it was from your home to the mine, at that time?
A. Just about the same distance from my house to the mine as it is from my house to the school house.
Q. How far was it from your house to the school house?
A. I don't know, about a quarter, or maybe not so far.
Q. About a quarter of a mile?
A. I don't think it was a good quarter.
Q. Was your house more toward Hartford than the school house? A. What is it?
Q. Was your house between the school house and Huntington? A. No, sir.

Q. Was it between the school house and Hartford?
A. Yes, sir.
Q. Did you live on the public road?
A. No, sir, we did not.
Q. Did you live near the railroad? A. Yes, sir.
Q. How far from the Midland Valley Railroad?
A. About 40 feet I reckon; the railroad grade is right against our sidewalk; that is the ditch, there is a great big ditch there that the railroad cut, the railroad cut the ditch.
Q. Could you see Mine No. 4 from your home?
A. Yes, sir, plain.
Q. No timber or anything of that kind between you and the mine to keep you from seeing the mine?
A. Not a bit.
Q. Now, you spoke of men at the stockade, what did you mean by the stockade?
A. Well, they had a fence built, and one fence there they had about, I never did count the wires, but it looked to me like twenty-five wires, and they had great high posts that was around this [buidling] that the scabs were in, and
3830 that is what they called the stockade, and nobody could get in there, inside those wires, there was a guard at every corner.
Q. Had twenty-five wires?
A. Looked to me like that, I never counted them, but it was way higher than my head, the posts were.
Q. And that fence surrounded the entire mine
A. No, sir, it didn't surround the entire mine.
Q. How much of the mine was surrounded by the fence?
A. I don't know, it started at John Bunce's corner of his fence, and went down to the railroad. They had it tore down before I went down there, I was not in a position to go down there, but the wires were removed, and I saw the posts.
Q. You saw the posts, and you judged from that there was twenty-five wires?
A. I saw where there were cut off the posts.
Q. The posts were down? A. No, they were not.
Q. But the wires were down? A. Yes, sir.
Q. Was that after April 6th that you were there?
A. Yes, sir, that was after July 17th.
Q. Were you down there on April 6th?
A. No, sir, I was at home.
Q. Did you see the meeting A. Yes, sir.
Q. See the crowd? A. Yes, sir.
Q. How many people were there on April 6th?
A. It looked to me like 5000, I don't know how many.

Q. How many were there on July 17th?
A. I never seen any.
Q. How is that? A. I never seen any.
Q. You didn't see any? A. Yes, sir.
Q. Or hear any shooting? A. Yes, sir, I did.
Q. Except the shots that came from the bull pen?
A. That is what I noticed at first, but there might
3831 have been shooting into the bull pen, but I couldn't understand it.
Q. What do you mean by the bull pen, is that different from the stockade?
A. That is the house there were in the bull pen, and the stockade is all the same, I reckon.
Q. And the fence was up at that time, on July 17th?
A. Yes, sir, I think it was.
Q. And did you say awhile ago that the only shots you heard were those that came from the bull pen?
A. That was in the morning, and we went into the cellar; when I heard those shots from the bull pen.
Q. Did you hear any shots come from another direction, except those from the bull pen?
A. No, sir, I didn't understand them if I did, I may have heard them, but I didn't understand which way they were going.
Q. And didn't see the smoke of any guns except from the bull pen? A. No, sir.
Q. And didn't see any men in the woods there?
A. No, sir.
Q. And didn't see any guns?
A. No, sir, I did not.
Q. Now, as I understand you, between two and three o'clock in the afternoon you still saw some shots coming from the bull pen?
A. Yes, sir, after we came out of the cellar; mother was about to lose her breath in there.
Q. These people in the bull pen had been shooting all day long? A. I reckon they were.
Q. Shooting at the air?
A. I don't know what they were shooting at.
Q. Anybody in the woods shooting at them?
A. I didn't see them if there was.
Q. And you never heard them?
A. I don't believe I did.
Q. And you were in plain view of Mine No. 4?
A. Yes, sir.
3832 Q. And you were in plain view of No. 3 also?
A. No. 3 mine?

Q. Yes. A. No, sir.
Q. Did you hear any explosion that day?
A. Yes, sir, early in the morning.
Q. About what time in the day was that?
A. I don't remember, I was scared so bad I didn't look at the clock.
Q. What?
A. I was scared so bad I don't remember what time it was.
Q. You didn't see any men that you knew? A. No, sir.
Q. You didn't see any union miners in the woods around there? A. No, sir.
Q. Or see any union miners fire at No. 4, did you?
A. No, sir.

(Witness excused.)

3833 MARY MASTELL, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct-Examination

By Mr. Grant:
Q. Your name is Mary Mastell? A. Yes, sir.
Q. Where do you live, Miss Mary? A. Prairie Creek.
Q. How long have you lived there? A. About 11 years.
Q. Did you go to school at the Prairie Creek school house in April 1914 with some of your girl friends?
A. Yes, sir.
Q. Do you know John Shaleen? A. Yes, sir.
Q. Did you see John Shaleen around that school house between the first of April and the 17th of April, 1914?
A. Yes, sir.
Q. What was he doing? A. He was cussing us.
Q. Cursing you? A. Yes, sir.
Q. And any of the other girls there that he was cursing too? A. Yes, sir.
Q. How many of you?
A. I don't remember, it has been a long time.
Q. There were several of you there? A. Yes. sir.
Q. Did any of these people that worked there, over inside of the Bache-Denman property during that time, use any bad language towards you little girls? A. I don't remember.
Q. You don't remember? A. No, sir.
Q. Did they ever throw any rocks at you?
A. No, sir.
Q. Did you play at the bridge where the other little girls played? A. Yes, sir.

Q. Do you know anything about the people working for the Bache-Denman people coming around that place where you were playing?

3834 A. No, sir.

Q. They never come there while you were playing?

A. No, sir.

Mr. Grant: Take the witness.

Cross-Examination

By Mr. McDonough:

Q. What is your age now?

A. I will be 15 the 27th of May.

Q. The 27th of next May? A. Yes, sir.

Q. You were 14 last May, that is right, is it?

A. Yes, sir.

Q. Now, do you remember what year this was that you told Mr. Grant about? A. 1914.

Q. 1914? A. Yes, sir.

Q. And he asked you if it was between the 1st and 17th of April? A. Yes, sir.

Q. How do you arrive at the time,—how do you know it was at that time?

A. I know they were there at that time.

Q. You know what?

A. I know they were there at that time.

Q. How do you know that was the time?

A. I don't remember.

Q. How old were you at that time?

A. Eleven.

Q. Eleven years of age? A. Yes, sir.

Q. And you knew Mr. John Shaleen, did you?

A. Yes, sir.

Q. Now what was it you said he did?

A. He cursed us and insulted us.

Q. He did what? A. He cursed us.

Q. Cursed you? A. Yes, sir.

Q. When was that, Miss Mary? A. In April.

Q. In April? A. Yes, sir.

Q. What time in April? A. I don't remember.

Q. The first of the month or the middle of the month or the last of the month?

A. It was not the last of the month.

3835 Q. It was not? A. No, sir.

Q. So then what do you say, what is your best judgment as to what time in the month it was?

A. I don't know, it might have been the 2nd or 3rd, I can't remember.

Q. You cannot remember? A. No, sir.
Q. You have no way then of fixing the time? A. No, sir.
Q. Was it during school? A. Yes, sir.
Q. And school closed on the 17th down there?
A. Yes, sir.
Q. And you are sure that it was some time before the 17th then? A. Yes, sir.
Q. Now, do you know about how long it was before the school closed? A. No, sir, I don't.
Q. How is that? A. I say I don't.
Q. Was it a week or two weeks before the school closed, or was it more than that, or less?
A. I don't remember, it has been a long time, and I was little.
Q. It has been a long time since then?
A. No, sir, I said it has been a long time, I don't remember.
Q. Can you give us any idea of just about how long it was before school closed? Give your best judgment about it.
A. I don't know, I couldn't say.
Q. You said to Mr. Grant that it was between the 1st and the 17th of April? A. Yes, sir.
Q. Now was it nearer the 1st of April than the 17th?
A. It was somewhere along there between the 1st and the 17th?
Q. Why do you say it was between the 1st and the 17th?
A. Because I know it was that time.
Q. I can't hear you. You remember that time, is that what you said, and you cannot fix it any nearer that that?
A. No, sir.
3836 Q. Were you going to school at the time?
A. Yes, sir.
Q. You remember about the large number of people coming there on the 6th of April, do you? A. Sir?
Q. You remember about a large crowd of people being at the school house on the 6th of April, don't you?
A. No, sir, I don't remember it.
Q. You were there that day? A. I don't know.
Q. Do you remember about a band coming there from Huntington about the 6th of April? A. I don't remember.
Q. Where was your home at that time, up there?
A. Prairie Creek.
Q. At Prairie Creek? A. Yes, sir.
Q. And you are the daughter of John Mastell?
A. Yes, sir.
Q. Where is your father now? A. He is at home.
Q. Down in this country, down at Prairie Creek?

A. Yes, sir.

Q. Don't you remember about that crowd coming the day they had the trouble, the early part of April, the day there was a fight between the union men and the guards, on the 6th of April, don't you remember that?

A. I don't believe I do.

Q. Now this Shaleen matter, did that occur before or after that day? A. That was before that day.

Q. Before that day?

A. Yes, sir, during school.

Mr. McDonough: That is all.

Redirect-Examination

By Mr. Grant:

Q. Miss Mary, you were not at the Prairie Creek school house on April 6th, the day they were said to have had that big picnic that Mr. McDonough spoke about,—were you there that day?

A. I don't believe I was.

(Witness excused.)

3837 Mrs. Mary Manick, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Grant:

Q Your name is Miss May Manick? A. Yes, sir.

Q. Where do you live, Miss Manick? A. Midland.

Q. Were you living around Prairie Creek in 1914?

A. Yes, sir.

Q. Did you go to school there in 1914? A. Yes, sir.

Q. While you were going to school there in April, 1914, did any of the men who were working over there at the Bache-Denman property insult you, or you girls? A. Yes, sir.

Q. Now, you may tell the jury all about it, who it was and what they said?

A. It was a non-union man that went up there,—we three girls went to the toilet one day, and they were on the hillside, and they offered us two dollars and a half or five dollars, I dont' know which, and they wanted us to come up there, and we said we would tell our brothers on them, and they said they didnt' care for our brothers, either; they had guns up there.

Q. They offered you two dollars and a half or five dollars for what? A. To come up there.

Q. They had guns up there? A. Yes, sir.

Q. Who, what girls were with you?
A. Elberta Johnson and Jessie Thompson.
Q. Were you at any other time with Miss Del Rosa and Miss Johnson, when there was any misconduct on the part of these non-union men toward you? A. Yes, sir.
Q. Tell the court about that?
3838 A. We were all going to school one morning, or noon, and they would stop and call us all kinds of names.
Q. Call you all kinds of names? A. Yes. sir.
Q. Did Miss Johnson say anything to them?
A. No, sir.
3839 Q. Did she threaten to tell her brother?
A. Yes, she said she would tell her brother.
Q. What did they say when she made that threat, if you remember? A. I dont' remember.
Q. About how frequently would the non-union men insult you girls around there?
A. Every time we would go out every day.
Q. And they continued as long as you went to school?
A. Yes, sir
Q. Did they ever throw any rocks at you?
A. I think Denman did. I know one of them rode the horse.
Q. I am not asking about Mr. Denman. I know he did not throw any rocks at you, but did any of those people working over at the Bache-Denman properties throw any rocks at you?
A. Yes, down at the creek they did.
Q. Tell about that.
A. When we were playing on the [swigning] bridge they stopped and threw rocks at us and we started and ran up to the school house.
Q. Those were the people that worked inside of the stockade, inside of the Bache-Denman properties? A. Yes, sir.
Q. Did you see them go inside of the property?
A. Yes, sir.
Q. Did any of them curse you?
A. Yes, sir, they always cursed us.
Q. Did they come around the school house at play time and curse you?
A. Yes, and every place we were playing at, down at the school house and when we went up to the toilet and going and coming to school.
Q. On the public road? A. Yes, sir.

Mr. Grant: Take the witness.

3840 Cross-Examination

By Mr. McDonough:

Q. You did not say what your age was,—how old are you?
A. I was 13; I am 16 now.
Q. You are 16 now? A. Yes, sir.
Q. When is your birthday?
A. Next July I will be 17.
Q. I did not understand what you said about Mr. Denman.
A. I said, when was going to school we met him on the road one day riding a horse. He was going up to 7 and I know he threw rocks at little boys.
Q. He threw rocks at you? A. Yes.
Q. Was that during that time? A. Yes.
Q. What month was that? A. I could not tell you.
Q. Was it 1914?
A. Yes, sir, it was at the time of school.
Q. He was riding horseback, was he? A. Yes, sir.
Q. Was there some more people with him?
A. No, sir, he was by himself.
Q. Did he throw many rocks at you?
A. He didn't throw so many, but he threw enough.
Q. How many is enough?
A. Five or six. He threw five or six.
Q. He got down off of his horse on the ground and picked them up, did he? A. He had them in his pocket.
Q. What sized rocks were they?
A. They were not very big.
Q. About what size?
A. Some of them as big as your fist.
Q. How far away was he when he threw them?
A. We was all on the road.
Q. What?
A. We was all on the dirt road on the public road.
Q. On the railroad or on the dirt road?
A. The dirt road.
Q. He was riding horseback along that dirt road?
3841 A. Sure he was.
Q. And you were traveling along the same road?
A. Sure we were.
Q. Was that at Prairie Creek or Midland?
A. That was at Prairie Creek.
Q. Near Prairie Creek? A. Yes.
Q. Can you tell any better than what you have what month that was and what year? A. No, sir.
Q. But it was in the year 1914? A. Yes, sir.
Q. But you do not know what month it was? A. No, sir.

Q. Well, was it before or after these other matters you have just told about? A. It was all at the same time.
Q. All on the same day?
A. No, not the same day, but the same school.
Q. Then you state it was in April that Mr. Denman threw the rocks at you?
A. I won't say just when it was because I don't know just when it was, but it was at school in 1914.
Q. What is your best judgment about it? What is your best recollection about when it was?
A. I don't know just when it was.
Q. I could not understand you.
A. I don't know just when it was.
Q. Was it in March of 1914?
A. I don't know, it was in school time.
Q. Was it in December, 1914?
A. I didn't say in December.
Q. Was it in July 1914?
A. It was not in July. I know it was not in July because school was out in April.
Q. It was then some time before April? A. Yes, sir.
Q. School was out April 17th, wasn't it? A. Yes, sir.
Q. And it was some time before April 17th?
A. Yes, sir.
3842 [Q. And it was sometime before April 17th?
A. Yes, sir.]
Q. You are a daughter of John Manick?
A. I am a sister of John Manick.
Q. Does your father live there?
A. I don't know where he lives.
Q. What is that?
A. My father and mother are separated and I don't know where he is at.
Q. Your father is not there? A. No, sir.
Q. Have you other brothers besides John? A. Yes.
Q. They live there, do they? A. Yes, sir.
Q. John Manick is a coal miner?
A. Yes, sir, also my other brothers are coal diggers, there are two at home yet.
Q. Well, John is the one that is a member of the union?
A. Yes.
Q. And the one the charges were brought against for violating the injunction? A. Yes, sir.
Q. When this matter took place, when Miss Johnson was present, did you report that to your brother?

A. I would tell my brother every night going home from school. I would pass his place he boarded at and he didn't say a word to them.

Q. You told him about everything that happened?

A. Yes, sir.

Q. Where were you on July 17th?

A. I was in Hartford.

Q. Had you moved over to Hartford?

A. I stayed there two days. I think it was the 16th that I went there.

Q. You went on the 16th did you?

A. Yes, sir, and I didn't get back until the 18th.

Q. You got back there the 18th? A. Yes, sir.

Q. Did anybody go with you?

3843 A. The whole family—mamma and all of the children but the boys, and they stayed at home.

Q. John and your other brothers didn't go?

A. George he did, but John and Pete didn't. I don't know where John was. He didn't stay at home. Pete stayed at home and took care of the house.

Q. Your mother and the children went?

A. Four of them, me and her and my sister and one brother.

Q. How did you get over there? A. In a buggy.

Q. And then came back on the 18th? A. Yes.

Q. You went over on the 16th? A. Yes, sir.

Q. The night of March 16th? A. We went in the night.

Q. I believe I asked you if you knew John Shaleen.

A. No, sir, I don't know him.

Mr. McDonough: That is all.

Redirect Examination

By Mr. Grant:

Q. Miss Manick, when talking about Mr. Denman awhile ago did you have reference to this Mr. Denman sitting there (indicating) or did you mean boys working over there at the property? A. Some boys.

Mr. McDonough: That is leading.

The Court: Yes, that is leading. The Denman boys would not be riding a horse. The court does not wish to be trifled with.

Mr. Grant: That is all.

(Witness excused.)

3844 CHARLES HOWARD, called as a witness on behalf of the defendants, and having been duly sworn, testified as follows:

Direct Examination

By Mr. Grant:

Q. Your name is Charles Howard? A. Yes, sir.
A. You live at Prairie Creek?
A. Not now I don't. I live at No. 6 Central.
Q. Were you living at or near Prairie Creek in April 1914 and during the year 1914?
A. Well, my home was there but I was at Spadra.
Q. Did you go to school at Prairie Creek in 1914?
A. Yes, sir.
Q. Are you a brother of Ella Howard and Mrs. Jessie Thompson? A. Yes, sir.
Q. You may state whether you were present at the time it is stated some one drew a gun on your sister?
A. I was not exactly present, but was within 50 or 100 yards, about 50 yards I judge.
Q. Explain to the jury what happened?
A. Well, he pulled out a gun and held it up like that (indicating), and told them if they didn't quit talking and jawing at them he would shoot them and used curse words.
Q. How was the man traveling? A. North.
Q. How was he traveling, by what means?
A. In a wagon.
Q. Did you say anything to him?
A. I hollered and told him he had better put that up or he was liable to get in bad, but he didn't do anything to me.

Mr. Grant: Take the witness.

3845 Cross-Examination

By Mr. McDonough:

Q. Mr. Howard, were you mining coal at that time or going to school?
A. I had been up until I started to school.
Q. Talk louder. A. I had been until I started to school.
Q. Were you working at No. 4?
A. No, sir, I had been working at Spadra.
Q. What is your father's first name?
A. John Wesley Howard.
Q. Now you say you were about 100 yards away?
A. No, not quite that much I believe.
Q. How much was it? A. 50 or 75 yards away.

Q. Where did that take place?
A. Well, between my home and the school house.
Q. What direction was your home from the school house?
A. North.
Q. How far north? A. Not quite a quarter of a mile.
Q. That was along the public highway was it?
A. Yes, sir.
Q. And you were going in the direction of the school house?
A. Yes, not exactly in that direction. I was coming down kind of out of the woods, kind of quartering like that (indicating).
Q. Were you going to school?
A. Yes, sir, I had been feeding the cows for my father.
Q. You heard the conversation between your sister and this man, did you?
A. Yes, sir, but could not understand distinctly anything.
Q. What was it you said he said, if they didn't quit jawing him he would shoot them?

3846 A. The little children at school was hollering at them as they passed and that is what he said, not to be jawing at him, I don't know whether they were or not.

(Witness excused.)

The Court: At this point we will stand adjourned until tomorrow, Wednesday November 14, 1917, at 9:30 o'clock a. m.

3847 Fort Smith, Arkansas.

Wednesday, Nov. 14th, 1917, 9:30 o'clock, a. m.

Pursuant to adjournment as last aforesaid came all of the parties as before on Wednesday, November 14th, 1917, at 9:30 o'clock a. m., and the trial of the case proceeded as follows:

PETE STEWART, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. Pete Stewart.
Q. You are known as Pete Stewart, Jr.? A. Yes, sir.
Q. Where do you live? A. I live at Hartford.
Q. What business are you engaged in?
A. I am operating a coal mine at the present time.
Q. Do you know Jim Doyle, commonly called Red Doyle?

A. Yes, sir.
Q. How long have you known him?
A. I have known him for ten years or more.
Q. Before you began the operation of a coal mine, I believe you belonged to the miners' organization?
A. Yes, sir.
Q. Where were you on the 16th and 17th of July, 1914, if you have any means of knowing?
A. I was in Kansas City, Missouri.
Q. On what business?
A. Well, I was a member of the Conference Committee.
Q. And was at Kansas City, you say?
A. Yes, sir, I was a member of the Conference Committee and was in Kansas City at that time negotiating the wage contract with the Mine Operators.
3848 Q. Do you know that you were there on the 16th and 17th of July, 1914? A. Yes.
Q. At what hotel did you stop?
A. At the Cordova Hotel.
Q. Was Red Doyle there? A. Yes.
Q. Did he stop at the Cordova Hotel? A. Yes.
Q. He was there on the 17th of July, 1914? A. Yes.
Q. And also on the 16th? A. Yes, sir.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:
Q. What time did you go to Kansas City?
A. We went there in the early part of June, I think, some time in the early part of June, I don't remember the date.
Q. Were you a representative of a miners' union?
A. Yes, sir.
Q. In what capacity?
A. I was a member of the Conference Committee, as I stated before. We were there for the purpose of negotiating a wage contract with the Mine Operators.
Q. Were you a representative of District 21?
A. Yes, sir, the Arkansas Scale District.
Q. Of what local were you a member?
A. I was a member of Local 1912 at Hartford.
Q. You lived there at Hartford at that time? A. Yes.
Q. Who appointed you or elected you a delegate to the District Convention? A. The District Executive Board.
Q. That met when and where?
A. Well, I think they met in Fort Smith at the time they appointed the Conference Committee.

Q. What time were you appointed?
A. Sometime prior to that, I don't remember the date.
3849 Q. About how long before that?
A. Well, I judge perhaps a month or perhaps two months.
Q. You were then appointed about the middle of June?
A. No, we went up there in the early part of June, but I don't remember the date we were appointed.
Q. You were appointed about a month before you went up? A. A month or two months before I went up.
Q. Did you remain there continuously from the time you went up there until after July 17th? A. Yes, sir.
Q. You did not come home at all?
A. I think I came home,—I didn't come home, either, but come to Winslow, Arkansas on the 4th of July.
Q. And you did not come down home? A. No, sir.
Q. Did anyone come with you as far as Winslow?
A. No, sir.
Q. Did you see Mr. John P. White in Kansas City?
A. Yes, sir.
Q. He was there? A. Yes, sir, he was there.
Q. Was he there during the time you were there, the whole of the time? A. No, sir.
Q. How much of the time was he there?
A. Well, he was there once or twice, I don't remember just now just how many times.
Q. Was James Mullen there? A. Yes, sir.
Q. Where does James Mullen live?
A. Where does he live?
Q. Yes, where does he live?
A. He lives at Midland, Arkansas.
Q. He has lived at Midland, Arkansas, a long number of years? A. Yes.
Q. He was an executive board member of the Nation-
3850 al union at that time? A. Yes.
Q. And you saw him in Kansas City during that conference? A. Yes, I think he was there at that time.
Q. Are you a son of P. R. Stewart? A. No, sir.
Q. Are you any kin to him? A. I am a nephew of his.
Q. He was President of the Mine Workers of District 21 at that time, was he? A. Yes.
Q. Was he there also in Kansas City?
A. He was there a part of the time.
Q. How much of that time was he there?
A. Oh, I could not say.
Q. Was he there while Mr. John P. White, the President, was there? A. I could not say for sure.

Q. Did P. R. Stewart, the President of the District, stop at the same hotel you stopped at? A. Yes, sir.
Q. Do you know what hotel President White stopped at?
A. I think he stopped at the Coates House?
Q. Did you see Mr. White at the Coates House?
A. Yes, I believe I did.
Q. Do you remember what hotel James Mullen stopped at?
A. I believe he stopped at the Cordova Hotel while he was there. He was there only once or twice during the time, —a short time.

Mr. McDonough: Stand aside.

Witness excused.

3851 L. SCHMIDT, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. L. Schmidt.
Q. Where do you live, Mr. Schmidt?
A. I live at Arcoal.
Q. Is that near what is known as the Coronado mine?
A. About 150 yards from the Coronado mine.
Q. Were you at home on the day that the Coronado mine burned in 1914? A. Yes, sir.
Q. Did you go down to the mine from your house?
A. Yes, sir, I went down there. I heard Mr. Willsley say the tipple is a fire, and I started out from my house and Mr. Willsley came around from the other side of the stable, and we started straight from my house and we both met there and he said, "I just been there ten minutes ago." And we went up to the tipple and it was burning. And we were standing side by side, me and Mr. Willsley and his son and Mr. Miller; and Mr. Miller asked Mr. Willsley, he told him, "We will put this fire out if you want us to", and he said, "No, sir", he said, "Let it burn, Mr. Bache will be tickled over it, and it is insured."
Q. He said, let it burn, that Mr. Bache would be tickled because it was insured? A. Yes.
Q. At the time you arrived at the tipple, Mr. Schmidt, in your judgment could you have put the fire out? A. Yes.
Q. Was there any water there?
A. There was water in about 15 steps, a pool of water.
Q. Was that the pond from which they got the water,—

A. (interruping.) The pond they run the pit with.
3852 Q. How far is Mr. Willsley's house from your house?
A. I expect it is about 200 yards or a little further.
Q. Did you remain around there for some time while the fire was burning? A. Yes, sir.
Q. Did the people gather in?
A. Yes, sir, a good many gathered in. They were coming in and going out all the time.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. Hull:
Q. Can you see this far, Mr. Schmidt, (counsel indicates picture back of the jury box)? A. Yes.
Q. I show you now plaintiffs' Exhibit No. 69 and ask you if you know what that is? A. Coronado tipple.
Q. Now, will you point out to the court and jury where the fire was when you got there?
A. The fire was on the other side there next to the railroad track, you can't see just where it was from this side. It was next to the railroad track where the two posts is by the elevator.
Q. Where was the railroad track?
A. The railroad track is behind that building.
Q. You did not come up to it on that side where the fire was then? A. No, I came up on this side.
Q. And you could not see the fire from this side?
A. Yes, I could see where it was. I was standing right next to it, it was where the two posts came up from the elevator.
Q. Was the fire on this side of the tipple or on the other side?
A. It was on the other side of the tipple, next to the railroad track.
Q. Where was that pond that you say was 15 steps from the fire?
3853 A. That pond is east from the slack washer.
Q. The slack washer dumps its slack out here (indicating)?
A. Yes.
Q. And the pond is over that way (indicating)?
A. Yes, over that way.
Q. And you say it is 15 steps from the tipple?
A. Yes, sir.
Q. And how deep was that pond?
A. I couldn't tell you how deep it was, I don't know how deep it is.

Q. Now, Mr. Schmidt, you may take the witness stand again. Now, about what time was it that you went down to Coronado?

A. It was about half past eleven.

Q. About half past eleven? A. Yes, sir.

Q. Had you had your dinner or lunch? A. No sir.

Q. It was before dinner then? A. Yes, sir.

Q. Who went with you down to the mine?

A. Mr. Miller.

Q. Will Miller? A. Yes.

Q. And Mr. Willsley and his son? A. Yes.

Q. You did not come up to the tipple from this side at all, you came up to it from the other side?

A. Yes, from the north side.

Q. Which side is this (indicating)?

A. This is the north side.

Q. But the fire was on the other side?

A. Yes, the fire was on the other side next to the railroad track in the elevator.

Q. You cannot see the boards that were burning from this side of the picture, from this view of the picture?

A. Well, I could tell where it was, but I can't see it in that picture. I was standing right there (indicating) by where it was burning.

3854 Q. Did you see a bucket of coal oil there?

A. I never seen the bucket,—Mr. Willsley went down there and brought a bucket up.

Q. Where did he go and bring the bucket from?

A. We four were standing side by side and he stepped down a step here (indicating) and he brought a bucket up. You could tell there was a little coal oil in it.

Q. You four were standing there? A. Yes.

Q. Where did he go and get the bucket?

A. He stepped down in a little basement about three feet high.

Q. He stepped down in a little basement? A. Yes.

Q. Where was that? A. Right where the fire was.

Q. On the other side of the tipple? A. Yes.

Q. How far was he from you when he picked up the bucket?

A. Just a couple of steps.

Q. How much coal oil was there in the bucket?

A. Just a little amount, you couldnt hardly tell how much.

Q. Describe that bucket?

A. It was a kind of molasses bucket, it may have been a large bucket, it looked like a gallon bucket.

Q. Did it have any rim around the top of it on the inside that would catch the coal oil and keep a little of it from going out?

A. I think it had a rim on the inside.
Q. That would keep a little of the coal oil from going out when the bucket was tipped over? A. Yes.
Q. What did Mr. Willsley say about that bucket of coal oil?
A. Well, he said, "Here they had it," and poured that bucket up.
Q. What did he mean by that?
A. He expected the men to take the bucket.
3855 Q. What did he mean by "Here they had it"?
A. I don't know. I suppose he meant, "Here is the bucket."
Q. That is all he said about the coal oil? A. Yes.
Q. Where was this little basement he picked the coal oil bucket out of?
A. Just two steps from where I was standing.
Q. On the other side of the tipple?
A. The fire was burning right here up by the elevator onto posts, and it was right down there where he got the bucket.
Q. Right near the fire on the other side of the tipple from the view you see here in this picture? A. Yes.
Q. How long were you there before the crowd came?
A. I can't tell, I don't know how long it was.
Q. Well, tell as well as you can how long you four men were there alone?
A. I seen a couple of men coming right after I left. That is about all I paid any attention to.
Q. How long were you there?
A. I was there about half an hour or maybe three-quarters of an hour.
Q. You four men were there about a half an hour, and after you left you seen a couple of men going there?
A. Yes, and after a while more men were coming and going.
Q. Was there anything else said by either Mr. Willsley or by you while you were there? A. No, sir.
Q. Were there any buckets around there, around the mine, except this coal oil bucket, this molasses bucket you have spoken about?
A. There are generally water buckets around there.
Q. You say they were generally around there, but were there any there that day?
A. I didn't look around after them, but there is always buckets around a mine.
Q. How were you going to put this fire out with water from the pond?
3856 A. Just take powder cans. There are generally a lot of powder cans around there.

Q. Well, they might be generally around there, but were there any there that day?

A. I never looked for any cans when he told me to let it burn. I went to the house and didn't look for any cans.

Q. So you do not know whether you could have put it out or not?

A. Yes, I could put it out with a couple of buckets of water.

Q. Where were those buckets?

A. We didn't need them. He didn't want it put out so we didn't look for any buckets.

Q. You just assumed that, Mr. Schmidt, that you could have put it out?

A. If he told us we could have put it out, we would have to get some water.

Q. It was just a small fire? A. Yes.

Q. How far was your house from the mine?

A. Maybe about 150 yards.

Q. Did you run down from your house or walk fast?

A. We walked tolerably fast.

Q. When did you learn the tipple was on fire?

A. I heard Mr. Willsley holler from his house the tipple was on fire and I ran from my house.

Q. Could you see it burning from your house?

A. No, I couldn't see it burning from my house, no smoke or nothing, until I got right up to it.

Q. How long did it take you to walk the 150 yards?

A. Well, I couldn't tell you that, I don't know how fast I went.

Q. Where was Will Miller's house?

A. He was trying to clean out a well and he was at my house.

Q. And so he went down with you?

A. Yes, all we four went together. We met at
3857 the stable.

Q. Describe more in detail, Mr. Schmidt, how much was burning of the tipple when you got there, just one piece of wood?

A. Both pieces were burning. The timber was not burning, only it looked like the coal oil was burning.

Q. And the timber was not burning at all?

A. It was burning up the timber, but it was just the coal oil burning.

Q. Just the coal oil on the outside of the wood was burning?

A. Yes.

Q. And you stayed there about half an hour, you say?

A. Yes, about half an hour, or maybe it was three-quarters of an hour.

Q. How much of it was burning when you left?

A. Afterward it went right straight up the elevator.

Q. When you left how much of it was burning?

A. I left in about half an hour and it got right smart headway.

Q. Was there anything but the coal oil burning then?

A. The timber got burning then.

Q. The timber got burning in half an hour? A. Yes.

Q. How high were the flames when you left?

A. I can't tell you that now, I never paid any more attention to it. I just went on to the house.

Q. Were they up to the top of the elevator?

A. No, they hadn't got to the top of the elevator yet.

Q. Do you know any of those other men that came there after you left? Who were the two men that were arriving as you left?

A. I know one man that came along there.

Q. Who was that? A. Doc Jones.

Q. He came just as you were leaving?

A. Just when I got to my house he was coming.

3858 Q. Who was the other man?

A. The other man was Anderson.

Q. How do you spell that, do you know?

A. Claude Anderson.

Q. Emerson? A. No, Anderson.

Q. How long was it, if you kept watch of the fire and the crowd, before any others came?

A. I never kept watch any more. I stayed in the house there. The people went on and were coming, and I never paid any more attention to it. I seen the smokestack falling and part of the power house and I never paid any more attention to it.

Q. Sometime after this fire, within the next week, were you asked to sign an affidavit that Mr. Willsley burned the tipple?

A. No, sir.

Q. Did you ever hear anything about that affidavit?

A. Yes, sir, I was there and signed an affidavit.

Q. Where is that affidavit, do you know?

A. I don't know.

Q. What did that affidavit say?

A. Well, just what I testified to right now.

Q. Tell the jury what that affidavit said as well as you can remember?

A. That affidavit said, "Me and Mr. Willsley met there together and Will Miller and we wanted to put the fire out and he told us no, to let it burn, and it was well insured."
Q. Who else signed that affidavit?
A. Several men, I don't know.
Q. Do you remember any of them?
A. I expect they will be in here later.
Q. They will be in here to testify? A. Yes.
Q. Who are they?
A. I think it is Mr. Shaw and several others.
3859 And Mr. McCann?
A. They won't testify to the same testimony I am. They have got different testimony.
Q. You know what their testimony is going to be?
A. No, I never paid any attention to their testimony.
Q. You know they won't testify to what you did?
A. No, they were not there when I was.
Q. And they won't testify to what you did? A. No.
Q. They did not sign the same affidavit you did?
A. I don't know. I didn't pay any attention to them.
Q. I thought you said a lot of them signed it, or some of them signed the same one that you signed?
A. Three or four did.
Q. Did Mr. Willsley sign it? A. No.
Q. Did Mr. Willsley's son sign it? A. No.
Q. Did Doc Jones sign it? A. I think so.
Q. Did this man Anderson sign it? A. No.
Q. Doc Jones signed the same one you did?
A. No. He may have signed another one.
Q. But you don't know?
A. No, I didn't pay any attention to his statement.
Q. He did not sign the one you did? A. No.
Q. Has anyone that you know got that affidavit that you signed? A. No.
Q. Do you know where it is now? A. No.
Q. Where did you see it last? A. In Midland.
Q. When was that?
A. That was just a while after the tipple burned.
Q. Who got you to sign that?
A. The Labor Commissionar.
Q. The Labor Commissioner, Mr. McCleary?
A. Yes, sir.
3860 Q. What did he say to you when he came after you to get you to sign it?
A. He never came after us.
Q. Explain what you mean. I thought you said he got you to sign it. What did you mean by that?
A. We went down there and made affidavit.

Q. Who went down there?
A. I can't recall all of them. Three or four, I think.
Q. State as many as you can? Doc Jones, Claude Anderson and Shaw?
A. Mr. Anderson was not there, Shaw was there.
Q. Was there a man named McCann there?
A. I can't recollect.
Q. How many were there? A. Three or four.
Q. Who put it up to you to go over there? Who asked you to go? A. I don't know now.
Q. What did you mean by saying that Labor Commissioner Cleary asked you to go?
A. Someone told us we were to go over there to give our affidavits.
Q. Who asked you to go? A. I can't recall.
Q. What did Labor Commissioner Cleary have to do with it?
A. I don't know that.
Q. You said he got you to sign it, what did you mean?
A. We give in our affidavits to Mr. Cleary.
Q. Was he there in Midland? A. His deputy was there.
Q. What is that? A. His deputy was there.
Q. Mr. Cleary was not there?
A. Yes, Mr. Cleary was there, too.
Q. What was his deputy's name? A. McKinley.
Q. What did Mr. Cleary say to you?
A. He never spoke to me at all.
Q. He did not speak to you there? A. No.
3861 Q. Then what did you mean when you said that Labor Commissioner Cleary got you to sign that affidavit?
A. I signed it to Mr. McKinley.
Q. What did you mean when you said a minute ago that Mr. Cleary got you to sign that affidavit?
A. I can't understand that. Mr. Cleary never told me to sign nothing. We went down there and put in our affidavits to Mr. McKinley.
Q. I don't seem to understand you at all, Mr. Schmidt. I understood you to say that it was Labor Commissioner Cleary who got you to sign the affidavit and I want to know what you meant by that?
A. It was not Mr. Cleary, it was his deputy.
Q. It was his deputy McKinley? A. Yes.
Q. What did he say to you?
A. He never said nothing to me.
Q. What did you mean by saying that Mr. McKinley, the deputy, got you to sign the affidavit?

A. We just went there and gave in our testimony. Someone, I don't know who, told us to go down and give our testimony.

Q. Do you say that Mr. McKinley did not say anything to you at all? A. No, he just took my testimony.

Q. When he took your testimony did he write it out?

A. Yes.

Q. Mr. McKinley did? A. Yes.

Q. How long an affidavit was that?

A. The same affidavit I testified to right here awhile ago.

Q. You have not seen the affidavit since then, have you?

A. No sir, I never had any use for it.

Q. Do you know where it is now? A. No, sir.

Q. Do you know who else signed the same affidavit you did? A. I told you Mr. Shaw.

3862 Q. And Doc Jones?

A. Yes, and the other man. I believe there was another one, but I can't recall.

Q. Doc Jones and Mr. Shaw and another man signed the same one you did?

A. Not the same one I did. They were not there the time I was there.

Q. What one did they sign?

A. I don't know what they signed.

Q. Did you hear them testify? A. No, sir.

Q. You were not there when Mr. McKinley took down their testimony? A. I was there but never paid no attention to it.

Q. You never paid any attention to it? A. No.

Q. And you could not tell anything they said?

A. No, sir.

3863 Q. You took your oath on that affidavit?

A. It was no oath.

Q. You didn't swear to it? A. No, sir.

Q. Just a statement? A. Yes, sir.

Q. Then we have been mis-calling it when we called it an affidavit, it was not an affidavit, just your testimony?

A. Testimony or what they call an affidavit, I don't know.

Q. Did you say anything in that affidavit about Willsley having set the place on fire? A. No, sir.

Q. You did not? A. No, sir.

Q. He didn't set it on fire, as well as you know?

A. I didn't know anything about it.

Q. You didn't know that Willsley set it on fire?

A. No, sir.

Q. And you didn't state that in that affidavit?

A. No, sir.

Q. Did you see Mr. Willsley some days after that time and tell him about this affidavit? A. I told him after.
Q. What did you tell him about the affidavit?
A. I told him it was awful strong evidence against him, and the people were of the general opinion that he had set it.
Q. The general opinion, who did you hear say that?
A. I don't know.
Q. Did Labor Commissioner Cleary say there was strong evidence? A. No, sir.
Q. Did McKinley say that? A. No, sir.
Q. No one said that when you were signing this affidavit?
A. No, sir.
Q. No one said when you were [sigining] that that this was strong evidence against Willsley? A. No, sir.
3864 Q. You didn't think it was at that time?
A. I don't know how the thing stood, because I didn't see him set it.
Q. Who paid your expenses over to Midland?
A. There was none paid, I have to get them yet.
Q. You have to get them yet? A. Yes, sir.
Q. Who are you going to get them from?
A. I don't know that I will get anything.
Q. You said you had to get them, who are you looking for to get them? A. I am not looking for anyone.
Q. Who are you going to try to get them from?
A. I ain't going to try to get them from anybody.
Q. That is dead loss to you then? A. I expect it is.
Q. You don't remember who got you to go over to Midland?
A. Two men came, and I don't know which men got me to go.
Q. And what were the two men's names?
A. Doc Jones and Shaw.
Q. They came over to your house?
A. They live right close together there.
Q. Was Shaw the Mine Inspector at that time?
A. No, he was a coal digger.
Q. This is not the same one that was a mine inspector?
A. No, sir.
Q. When did they come to your house and get you to do that?
A. I don't know what day in the week or what time in the day.
Q. It was three or four days after Coronado burnt?
A. I think several days after, yes, sir.
Q. And what did they say to you when they came to get you to go over there?

A. I cannot recollect that, they just told us to go over there and give in an affidavit; they wanted us to go over there with them.

3865 Q. They didn't say anything about paying your expenses over there? A. No, sir.

Q. Did they say who wanted you to go over there?

A. No, sir.

Q. Did they say anything about the Labor Commissioner?

A. No, sir, not that I recollect.

Q. Where did you meet in Midland?

A. I forget the fellow's house, we met in some man's house.

Q. You cannot remember whose house it was?

A. No, sir, I can't recollect.

Redirect Examination

By Mr. Covington:

Q. You have told here just what occurred down there, have you, Mr. Schmidt? A. Yes, sir.

(Witness excused.)

3866 CHARLES CLAYBORN, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. What is your name? A. Charles Clayborn.

Q. Where do you live, Mr. Clayborn?

A. I live down near Hartford.

Q. Where did you live in the summer of 1914?

A. The same place.

Q. The same place? A. Yes, sir.

Q. Was your residence near what is known as Dallas Mine?

A. Yes, sir.

Q. Did any of the Bache-Denman people in the summer of 1914 place in your charge or care the Dallas property?

A. I think, if I remember right Mr. Covington, it was before 1914, probably in February of 1914.

Q. There has been something said here about an injury to the property, or burning of it, or something, some part of it catching fire; can you tell the jury the extent of the damage and how it was? That is, what caught fire and burned?

A. Well, yes, sir.

Q. Talk out loud so we can all hear.

A. The engine room was burned, and the extension of the tipple, or that part of the dirt dump,—the tipple was not in-

jured by fire at all. The part that runs out from the tipple that constitutes the dirt dump was burned.

Q. You mean the platform on which they push the cars of dirt out and dump them off on each side of that tramway, that runs out from the tipple? A. Yes, sir.

Q. Now proceed.

3867 A. That is the extent of the fire damage that was done there.

Q. Now what happened to it after that, if you know of anything? Was it torn down?

A. Yes, sir when the soldiers came out there, they came over and taken the boards off of the side of that tipple, and nearly all of the blacksmith shop, and all the stuff that they could get loose around there, and hauled it off.

Q. There has been something said about damage to the boiler,—were the boilers damaged? State to the jury if you made an examination of the boilers.

A. There seemed to be six flues of the boiler that was damaged and the fire sheet, or the end of the boiler is slightly caved in; probably sprung in a half an inch at the place where those six flues are injured.

Q. Now, were you there the day the fire did the damage?

A. I was there that night, yes, sir.

Q. It was at night? A. Yes, sir.

Q. Who assisted in putting that out? A. Mr. Steele.

Q. Who?

A. Mr. Steele, and Tom Long, and George Fuller, and another gentleman by the name of Coke came that night, and we let out all of the cars that were above the tipple. The Midland Valley had a lot of empty flats setting above there, and we let them out down on the main line.

Q. Mr. Steele was there I believe you said. A. Yes, sir.

Q. He came that night to help get that stuff out?

A. Yes, sir; and the fire had burned the boiler room, and was burning in that part of the dirt dump, and there was some stringers running out from the tipple to the dirt dump,

3868 and I don't know how long they were, and they were from six to eight feet of those stringers left there unburned, and the fire had almost gone out, and I am not positive, but I think it was a man by the name of Gallagher, that taken a little piece of iron, and scraped off a few of the burning coals that was still on one of those timbers.

Q. The tipple was not burned at all, or any part of it?

A. No, the tipple was not burned; it is there yet, with the exception of what was taken off.

Q. Are you the father of Lloyd Claborn? A. Yes, sir.

Q. Tell the jury where your son was on the 17th day of July, 1917, on the day of the battle at Prairie Creek?
A. He was at home.
Q. At home?
A. On that day, and that night, and the night before.
Q. What was his physical condition? A. He was sick.
Q. Sick in bed?
A. He was sick in bed most of the time, and lying around.
Q. Where is he now?
A. Out on the porch most of the time.
Q. I said where is he now?
A. In the United States Army.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:
Q. Was that the Clayborn that was held for contempt?
A. Yes, sir.
Q. You were a witness in the contempt proceeding?
A. Yes, sir.
Q. And that was in this court, and you testified then like you are testifying now, did you, except as to the burning of the Dallas Mine, and you were not examined about that?
A. I think so, Mr. McDonough, that is my recollection.
Q. Were you engaged in mining yourself at that time?
A. I believe I was. I believe I was working at the
3869 Bolen-Darnell.
Q. As I understand you, Bache-Denman employed you in February to guard this Dallas Mine?
A. No, there was no guarding,—I will make that statement, and make it clear to you if I can. There was a man living in that house there, and it seems that Mr. Trigg was not satisfied with the situation, and he met me at the pit top at that time, before I moved in the house, I was working for the Bache-Denman people at Mammoth Vein, and he asked me how it would suit me to move into that house.
Q. Were you in the employ of the Bache-Denman people during February?
A. I worked for the Bache-Denman Company until they shut the Mammoth Vein down, I don't remember the date.
Q. And did you quit when the Mammoth Vein was shut down?
A. Yes, sir, I quit their employ when that was shut down.
Q. You were a union miner? A. Yes, sir.

Q. And you quit because they opened on an open shop plan?

A. No. they had not placed the Mammoth Vein on the open shop plan, as I understood, they shut it down for some purpose, I don't know what.

Q. Were you in the employ of the Bache-Denman companies after the mine was shut down at any time? A. No.

Q. You were not guarding the property there, this Dallas Mine, after April 6th, or on April 6th?

A. Not guarding it? Well, yes, you might say that I was, I think I moved in in February.

Q. Were you in their employ long after that time, watching it, and taking care of it?

A. I cannot say their employ, I was not receiving any
3870 remuneration for it, only just the house rent is all.

Q. What is your statement then as to whether or not you were looking after the property during all the time after April 6th, say.

A. You might say I was looking after it all the time.

Q. All the time? A. Yes, sir.

Q. You understood that, although you say you were not in the employ of the Bache-Denman Company?

A. I don't consider it in their employ.

Q. But you considered it your duty to look after the Dallas Mine?

A. Yes, sir, I did, and reported to the company every little incident that happened.

Q. Did they compensate you for that work?

A. No, sir, no more than the house rent.

Q. You didn't expect anything? A. No, sir.

Q. Or consider that you were in their employ at all?

A. No, sir.

Q. And that went on until in October or November of that year? A. I don't remember how long it went on.

Q. Can you tell how long that condition went on?

A. I am still in the property.

Q. You are still in the house? A. Yes, sir.

Q. Can you state when the fire occurred, about when?

A. Well, no, I don't know that I could make the statement, and I don't know that I can, but it must have been three or four days after the Prairie Creek trouble.

Q. Were you at home on the day of the Prairie Creek trouble, July 17th? A. Most of the day, yes, sir.

Q. And by home, you mean in this house that you have already described? A. Yes, sir.

3871 Q. And that was located at the Dallas Mine, is it?

A. Yes, sir, right there within a hundred yards.

Q. Is there a public highway going along there over to Prairie Creek No. 4? A. No, sir.
Q. You say your son was at home that morning?
A. Yes, sir.
Q. How long did he stay there?
A. All day, I think. He might have went out nd got a bucket of water in the day, but if he did I didn't know anything about it. I went over as far as No. 7 myself that day.
Q. As far as where? A. No. 7.
Q. You went down there to work? A. No, sir.
Q. No. 7 didn't run that day?
A. Yes, sir, I think it did.
Q. At Hartford? A. Yes, sir.
Q. The Central Coal & Coke Company?
A. No, sir, you know it maybe as the Hoffman Mine.
Q. It was running on July 17th? A. I think it was.
Q. Who was operating it?
A. I think the Central Coal & Coke Company, I am not positive, but I saw several of their employees there.
Q. What time were you there?
A. Well, it must have been along about 10:00 or 11:00 o'clock.
Q. Now, Mr. Clayborn, have you not gotten the days confused? A. I don't think so.
Q. Don't you know that the Central 7 did not run, and no other mine ran there on July 17th?
A. I don't know it, I think they were running, and I am almost positive, because I was up on top of the tipple.
Q. Did all of the mines run on the day you have designated that No. 7 was running? A. No, I don't think they did
Q. None but No. 7 ran?
A. I don't know about the others.
3872 Q. Did No. 7 run all day?
A. I don't know about that.
Q. You were at No. 7 at what time?
A. Something like 11:00 o'clock.
Q. Was it running at that time?
A. I think it was, I think it was hoisting coal at that time.
Q. But didn't you say—why do you say you think it was, have you some doubt about it?
A. No, I have no doubt about it at all, I was up on the tipple with the pit boss, and I am sure they were running coal.
Q. Who was the Pit boss?
A. Fitzgerald, Joe Fitzgerald.
Q. And whether they were closed down soon after that you don't know? A. I don't know.

Q. You stayed there about how long?
A. I must have stayed there half an hour.
Q. Were you high enough on that mine to see the smoke at No. 3 and 4? A. Yes, sir.
Q. Did you hear the explosion at No. 3? A. Yes, sir.
Q. And hear the guns firing?
A. Yes, sir, I heard guns.
Q. Can you tell about how many guns were fired?
A. No, sir.
Q. You didn't know what was going on at all?
A. No, sir, personally I didn't know, no, sir.
Q. You had not the least idea of what was going on?
A. I had an idea, I didn't know who was carrying it on or anything about it.
Q. You didn't know that the union miners or anybody else were blowing up No. 4, and shooting and driving the men away from No. 4?
A. I didn't know but what maybe it was the No. 4 men trying to drive the people out of Prairie Creek.
3873 Q. That is what you heard?
A. I had heard such talk that they were going to.
Q. That the No. 4 men were going to shoot up Prairie Creek?
A. Yes, sir.
Q. And you got that from what you heard around Hartford, and around your home?
A. Yes, sir, around my home.
Q. And from the union miners?
A. Not altogether union miners.
Q. Did you hear it in the union? A. No, sir.
Q. You were a witness in the contempt proceedings?
A. Yes, sir.
Q. I will ask you if this question was not asked you, and that you made the answer that I will give you: "Q. The mine where he was working (referring to your son) didn't run that day did it?
A. I don't think it did. I will not be positive, I don't know about it myself." Is that what you testified to?
A. I guess that is right.
Q. You said awhile ago that it did run.
A. No, I did not. I didn't say it. He was working at the Bolen-Darnell Mine, and I said the Hoffman Mine.
Q. Your son was not working at the Hoffman Mine?
A. No.
Q. He was working at Bolen-Darnell? A. Yes, sir.
Q. And the Bolen-Darnell did not run?
A. I don't think it did, I didn't go out, but I know he didn't work.

Q. Did you see any guns that day? A. No, sir.
Q. Did you hear Mr. Fitzgerald,—he was the foreman, was he? A. Yes, sir.
Q. Joe Fitzgerald? A. Yes, sir.
Q. Did you hear him testify in the contempt case?
A. No, I didn't.

3874 Redirect Examination

By Mr. Covington:
Q. Mr. Clayborn, counsel asked you if your son was not one of the men that was held in the contempt cases. Is it not a fact that Judge Youmans discharged your son?
A. Yes, sir.
Q. And turned him loose on the hearing of the case?
A. Yes, sir.
Q. Speak out.
A, Yes, sir, that is a fact, he was discharged.
Q. I believe you stated it was three or four days after the fire on the 17th, before this boiler house burned at Dallas? A. That is my recollection.
Q. How far is it from your house down to the Hoffman Mine?
A. I think it is a fraction over a quarter of a mile.
Q. A fraction over a quarter of a mile? A. Yes, sir.

(Witness excused.)

3875 Mrs. Ella Bumpas, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. What is your name? A. Bumpas.
Q. Your given name. A. Ella Bumpas.
Q. Where do you live, Mrs. Bumpas?
A. Prairie Creek.
Q. How long have you lived there?
A. I will have to study a minute.
Q. About how long?
A. We have been there about seven or eight years.
Q. Eight years? A. In that house, yes, sir.
Q. Do you live on a farm there?
A. Yes, sir, we live on a farm.
Q. You are farmers? A. Yes, sir, we are farmers.
Q. I believe your husband does not belong to the union?
A. No, sir, he don't belong and never did.

Q. Did you live in the same house in the summer of 1914, in the spring and summer? A. Yes, sir.

Q. Do you recall the mines closing down union and opening up non-union? A. Yes, sir, I remember it well.

Q. Speak a little louder so that the jury can hear you. Did you see any of the employees or guards at the Bache-Denman Mine No. 4 there during the spring and summer of 1914?

A. Yes, sir, I have seen plenty of them.

Q. Now, Mrs. Bumpas, state to the jury whether you had any difficulty in gathering or cultivating your crops?

A. Well, I don't know,—they did try to get some of the land away from our man, but he never did turn it over
3876 to them, and they would go around with guns, and stand in the field and guard the road, and they stopped him once from going through there, and turned him back, he was after his mules at that time, and I don't remember the date.

Q. They said what?

A. They stopped him when his mules got out, they started through there, and,—I call them scabs, that is what they were,—and they made him go around, and wouldn't let him go through after the mules, and held him up with guns, and made him go around.

Q. Now, how many was in that crowd, about how many?

A. I don't know, there were quite a few though.

Q. Quite a few of them?

A. I would say 25 or 30, there might have been more or not that many, but I believe at least 25.

Q. Did you experience any inconvenience there in any way by reason of the shooting, by anyone, and if so, state it to the jury.

A. I should think we did, when you get up and leave home at night, and take the little children, I would call that inconvenience, wouldn't you?

Q. I just asked the question. A. All right.

The Court: Answer the questions that they ask you, and never mind levity; you are under oath testifying, and answer the questions asked.

Q. Did they have any difficulty with your husband at any time?

A. Yes, sir, there was quite a few that came through our field at one time, and he ordered them out, and they threatened to shoot him, they claimed they were marshals, deputy marshals, and one of them threatened to shoot him.

They went right through our cornfield, tromping it down. I guess there was betyeen thirty and forty.

3877 Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:

Q. Mrs. Bumpas, do you know when it was, the time that these men started to go through the field, and you told them not to go through?

A. I can't remember the date, some time after the 6th of April, when they got the permanent injunction.

Q. They started to go through the field and they turned them around? A. Yes, sir.

Q. And you told them to get out? A. Yes, sir.

Q. And they got out? A. Yes, sir.

Q. Now when was it that the marshals and deputy marshals was there, if you know?

A. I can't remember the date, but it must have been some time along in June—corn was up so high (indicating).

Q. In June before the battle, was it? A. Yes, sir.

Q. That the marshals were there? A. Yes, sir.

Q. How long before the battle of July 17th?

A. Well, I don't know just when, some time along in June, as well as I remember.

Q. Was your house located right in Midland, close to the railroad?

A. My house is at Prairie Creek, not at Midland at all.

Q. Right in Prairie Creek I mean.

A. Not exactly in the camp, but on the railroad.

Q. How far is it from the railroad?

A. Oh, the railroad runs right by my kichen, just as close as it can be.

Q. Did you live in sight of Prairie Creek No. 4?

A. Yes, sir just across the field from our house.

Q. About how far away?

3878 A. Well, I don't hardly know, just a short ways though.

Q. Can you see the tipple from your house?

A. Plainly, it is in plain sight, there is not a tree or anything between my house and the tipple.

Q. Something like a quart of a mile?

A. It might be a quarter.

Q. Something like a quarter or half a mile?

A. It might be that far.

Q. Any timber between your house and the tipple of Mine No. 4?

A. Not a tree between my house and the tipple of Mine 4.

Q. You live in sight of the school house?
A. No, sir, I can't see the school house for the timber. There is timber between my house and the school house, if it was not for that we could see.
Q. Where is your husband now? A. Where is he?
Q. Yes. A. Out there minding my baby.
Q. Out at home? A. No, sir, out there in the hall.
Q. Were you there on April 6th, at your home?
A. I was at home, but I never went about the mine, I stayed at home, I could see the crowd passing.
Q. Any of your family engaged in mining then?
A. No, sir, there was not at that time, but since, I have a boy that joined the Union and works over at No. 4 mine.
Q. Two of your sons? A. No, sir, just one.
Q. He works out as a Union man? A. Yes, sir.
Q. Member of the Union?
A. Yes, sir, he has not been working but about a year.
Q. What is his first name? A. Fred.
Q. Fred Bumpas? A. Yes, sir.
Q. Did he work at No. 4 Prairie Creek?
3879 A. Yes, sir, he worked there now, repairing around on top; he never has been under the ground at work, he just works on the top.
Q. Where were you on July 17th, the day of the battle?
A. I left home.
Q. You left home? A. Yes, sir.
Q. Why did you leave home?
A. Because I was afraid.
Q. There was shooting, was there? A. Yes, sir.
Q. You saw armed men?
A. No, sir, I didn't see no armed men, nothing but those scabs.
Q. You heard a great many shots, did you?
A. No, sir, I didn't hear a shot.
Q. What time did you leave home?
A. About 10:00 or 11:00 in the night.
Q. The night before? A. Yes, sir.
Q. Where did you go? A. To the mountain.
Q. What mountain? A. Sugar Loaf Mountain.
Q. Did your husband go with you?
A. He went part of the way and he came back.
Q. Any other members of your family go with you?
A. I taken my my children.
Q. How many children? A. Seven.
Q. Seven children? A. Yes, sir.
Q. You and the seven children went up on the Sugar Loaf Mountain? A. I taken six with me.

Q. Fred was not with you?
A. Yes, sir, he was with me, but you know I have a young baby, that makes the seventh now, but I only had six at the time.
Q. You had six with you then? A. Yes, sir.
Q. Did you and your six children go on to the mountain after your husband turned back?
3880 A. I said we went to the mountain, we went to an old lady's that farms a little farm that lives right at the foot of the mountain.
Q. What was her name? A. Keafer.
Q. What time did you get to her house?
A. It was about midnight.
Q. You left home about 11:00?
A. Yes, sir, somewhere near there.
Q. And got to her house about midnight?
A. Yes, sir.
Q. How did you go, in a buggy?
A. No, sir, we walked; if we had a buggy we couldn't have used it.
Q. Did your husband go [to] all of the way to the house with you? A. No, sir, he did not.
Q. How far did he go?
A. He went to the top of the hill with us.
Q. Why did you leave home at that hour of the night with the baby?
A. Because I was afraid, and they were shooting around.
Q. Shooting had commenced then?
A. They were shooting around that scab pen all the time.
Q. You didn't see them? A. No, sir.
Q. But you heard the shots?
A. Yes, sir, I did, and I knew it was,—
Q. Without seeing them, you knew it was the scabs.
A. I knew there had never been nothing like that before the scabs had been put there, and we could see them any day time passing along with the guns.
Q. And before the mine was opened on an open shop basis there was no shooting around that community?
A. Oh, yes, there was, but not so much.
Q. Not so much as there was after that mine was opened on an open shop basis,—shooting [begain] more mark-
3881 edly after that mine was opened open shop that it was before? A. Yes, sir.
Q. You didn't see any men firing shots at all?
A. No, sir, I didn't see them, but I could hear them some times, they would whiz by.

Q. Did you hear any shots on the 17th?
A. No, sir, not a one.
Q. How far were you from the battle on the 17th?
A. I guess probably three miles.
Q. Two or three miles? A. Two or three.
Q. Did you stay there all the 17th at this house where you went? A. Until way the next evening.
Q. That was the evening or the afternoon of the 17th?
A. Yes, sir.
Q. Did you go back home then? A. Yes, sir.
Q. Your husband come after you? A. Yes, sir.
Q. And you and he and the children went back home?
A. Yes, sir.
Q. Fred go back with you? A. Yes, sir.
Q. What was it you said about No. 4 being operated now?
A. Well, I never said anything, only I said that they built the tipple there.
Q. Is Prairie Creek No. 4 that was then, being operated now?
A. They are working on the tipple, and doing repair work around there; they are hoisting coal at No 3.
Q. That is Central Coal & Coke Company?
A. Yes, sir, they call it No. 11 now.

(Witness excused.)

3882 WM. H. CLUCK, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

Direct-Examination

By Mr. Covington:
Q. State your name. A. W. H. Cluck.
Q. Where do you live, Mr. Cluck?
A. What did you say?
Q. Where do you live?
A. I live south of McAlester.
Q. In Oklahoma? A. Yes, sir.
Q. What is your occupation? A. Farming out there.
Q. How long have you lived over there, Mr. Cluck?
A. Three years, I have made three crops.
Q. Were you a miner before you moved over to Oklahoma? A. Yes, sir, I worked in the mines.
Q. What mine did you work at and where did you live?
A. Bache-Denman mine.
Q. Did you live at Prairie Creek in 1914?
A. I lived at Frogtown.
Q. I mean in Frogtown? A. Yes, sir.

Q. How far is that from Prairie Creek, or from Mine No. 4? A. About a mile, or a mile and a quarter.

Q. Do you know a Mr. Goatcher? A. I have seen him.

Q. Over in Oklahoma? A. Yes, sir.

Q. Did you tell him sometime after the trouble at Prairie Creek, on the 17th of July, 1914, that you and Jim Slankard shot up Frogtown on the night that it is alleged that the employees of the Bache-Denman people shot it up?

A. No, sir, I did not.

Q. Were you in Frogtown that night, Mr. Cluck?

A. Yes, sir.

Q. What was your physical condition?

3883 A. Well, I wouldn't have been able to shoot a gun; I got in an explosion at Bache-Denman Mine at Mammoth Vein, and my brother was killed, and I was all broke up and I laid fourteen days expecting to die, and I am not over it yet.

Q. And your hands and arms, were they bandaged?

A. I couldn't handled a gun if I had wanted to.

Q. That is what I am getting at. What occurred there that night, the night that there were shots fired into the houses, what did you do?

A. Why, I and the woman, we had gone to bed, and the shooting commenced, and we got out, there was kind of a sink place, just below the well, and we got in there until the shooting was over.

Q. Down in there? A. Yes, sir.

Q. And laid down in that depression?

A. Yes, sir, it was in low ground.

Q. How long did the shooting last, about?

A. Twenty-five or thirty minutes.

Q. Twenty-five or thirty minutes? A. Yes, sir.

Q. Was your house shot into, I mean did the bullets pass through your house, if you know?

A. There were two shots passed through the barn, right in front of the house.

Q. There were two shots passed through the barn?

A. Yes, sir.

Q. [Aid] you examine any other houses there near you to see if they had been fired into and shots had gone through them?

A. John Peterson's house was shot into.

A. Then you had nothing whatever to do with that matter at all? A. No, sir.

Q. You didnt tell Goatcher any such a thing?

A. I never told him no such stuff.

Q. His name is William Jessie Goather?

A. Jess Goatcher is all ever I heard called him.

3884 Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:

Q. Are you acquainted with Mr. Goatcher?
A. I have been around and seen him several times.
Q. You know him when you see him? A. Yes, sir.
Q. Do you know where he lived at that time?
A. He lived on Oscar Tuckers place.
Q. How far from you?
A. Mile and a half or two miles.
Q. You lived right in the town of Frogtown?
A. Yes, sir.
Q. That is the same as Camp Beulah?
A. Yes, sir, right down the Rock Island switch, from the south part of town.
Q. Some people call it Camp Beulah and some call it Frogtown? A. Yes, sir.
Q. That is the place you had reference to when you testified about this shooting? A. Yes, sir.
Q. Now, when was that, Mr. Cluck?
A. It was on Sunday night, it was in July sometimes, I couldn't tell you what date, but it was in July.
Q. Do you remember the day of the battle, when Prairie Creek was destroyed, Mine No. 4 and 3 blown up?
A. Yes, sir, I was in Hartford that day.
Q. It was before that, was it? A. Yes, sir.
Q. The Sunday night before that?
A. The Sunday night before.
Q. And about what time in the night did you say it was?
A. We had gone to bed, it was after night, but I cannot tell you just what hour.
Q. Did you see anybody in Frogtown that night that you knew, besides your own immediate family?
A. Yes, sir, Mr. Robinson's folks.

3885 Q. Anybody else?
A. No, I don't know. I seen several, but they were frustrated, the women and children all got up and flew for Hartford that night, scared to death.
Q. Just describe that shooting, as near as you can, how many shots.
A. Oh, I couldn't describe how many shots.
Q. Were there many?
A. Yes, sir, there were a good many.
Q. What is your best estimate as to the number of shots that were fired?

A. Oh, I am not able to tell that; we had laid down, and the shots commenced after we went to bed.
Q. Give your best judgment about it.
A. There were lots of them fired, but for me to tell just how many, I couldn't.
Q. Just your opinion as to the number, whether there was a dozen or five.
A. Oh, there was a dozen and more than five, and more than twenty.
Q. Was there a thousand?
A. Oh, I couldn't tell you.
Q. What is your best opinion of it, your best estimate?
A. I can say there were lots of shots fired.
Q. You are not able then to give any estimate as to the amount? A. No, I couldn't tell you.
Q. Were they fired from the streets?
A. No, the way that town lays it was from the east side of the town, is where the shooting come from.
Q. Is there a public highway running along the east side?
A. No, sir.
Q. No public highway there? A. No, sir.
Q. Is there a public highway on the west side?
A. Yes, sir.
Q. Was the firing coming from the east side?
A. Yes, sir.
Q. Did it all come from one direction?
A. Yes, sir, all from the east.
3886 Q. Could you tell from hearing the shots about how many guns seemed to be firing?
A. No, I couldn't.
Q. About how far away was Frogtown from the firing?
A. About a hundred yards.
Q. About a hundred yards? A. Yes, sir.
Q. Did you hear any conversation or talk?
A. No, I didn't.
Q. Out there? A. No, I did not.
Q. Was there anybody hurt or injured in that shooting, or by reason of that shooting?
A. Not that I know of, only those that were scared, some of them were scared, I know my woman was scared so it cost me a $25.00 doctor bill, with Dr.
Q. You said before they were scared, but the question I asked you was anybody shot?
A. Not that I know of.
Q. Did you go to Hartford that night?
A. The next morning.
Q. Did you remain at home the remainder of that night?

A. Yes, sir.
Q. And went to Hartford early the next morning?
A. Yes, sir.
Q. Did you have business over at Hartford?
A. No, not particularly, just went to Hartford to be going.
Q. Did you hear anybody traveling on horseback or on foot or in automobiles that night, about the time of the shooting? A. No, I did not.
Q. Did you hear any noise, unusual, except the shooting?
A. No, sir, only the women and children hollering.
Q. They were scared and screaming?
A. I thought they were scared, because they went off in their night clothes.
Q. They all left, got up and hurried away?
A. All but my woman and Mrs. Robinson.
3887 Q. How many families left Frogtown and went to Hartford? A. I can't tell you.
Q. That night? A. All that was there left.
Q. All that were there left? A. Yes, sir.
Q. And how many families were there?
A. Oh, I guess twenty.
Q. Twenty families, and all of them went to Hartford?
A. Yes, sir, all but two women.
Q. That night? A. Yes, sir.
Q. And walked over there? A. Yes, sir.
Q. How far is it from Hartford?
A. It is called a mile and a half.
Q. You knew that night that they left, did you?
A. Yes, sir.
Q. You got out there and saw that they were gone?
A. How come me to know, Mrs. Robinson came over to our house.
Q. I am asking if you had personal knowledge that they left? Did you get out on the street or on the road and see them go?
A. No, but Mrs Robinson said they had all gone out of town.
Q. And that is the reason you know they were gone, because she said they were gone?
A. Yes, sir, and the next morning we met them coming.
Q. You met the whole twenty families coming back the next morning?
A. I can't say twenty families.
Q. All walking, were they? A. Yes, sir.

Q. Some small children? A. Yes, sir.
Q. And you went over to Hartford the mile and a half, you met them coming back? A. Yes, sir.
Q. About half way over?
A. They were just coming out of town.
Q. Did you stay in Hartford all day on Monday, the next day? That was Sunday night as I understand you now, and on Monday, did you stay in Hartford all day?
A. Until in the evening.
3888 Q. What time? A. Oh, three or four o'clock.
Q. Did you go back home? A. Yes, sir.
Q. Stay at home that night? A. Yes, sir.
Q. Did you go to Hartford the next day?
A. No, I don't believe I did.
Q. Did you attend that meeting at the base ball park? at Hartford or Prairie Creek or Midland,—Hartford I mean.
A. No, sir.
Q. Just a short time before the battle of July 17th?
A. No, sir.
Q. Where were you on the day of the battle?
A. In Hartford.
Q. What were you doing in Hartford that day?
A. I can't tell you.
Q. How is that?
A. I was over in Hartford.
Q. And you can't tell what you were doing, have no recollection, I can't hear you, Mr. Cluck?
A. I say I was in Hartford that day.
Q. I asked you if you had any recollection of what you were doing?
A. We were down here trading in Hartford, and went over to get a few grocercies that day.
Q. What store did you buy them from?
A. Robinsons.
Q. Did you walk over that day?
A. No, sir, with a buggy and horse.
Q. What time of the day was it that you bought those groceries?
A. Wesdnesday, I think it was, I ain't sure.
Q. Is that day of the battle as you remember it? I am waiting for your answer, whether July 17th was on Wednesday, and whether that was the day you bought your groceries? A. Yes, sir, I was in Hartford that day?
Q. And where were you on Thursday?
A. On Thursday I couldn't tell you.
3889 Q. Where were you on Friday?
A. I was about home there.

Q. What day was it that Prairie Creek No. 4 was burned up? A. I said the 17th.
Q. What day of the week was that?
A. Well, I will tell you, I couldn't tell you.
Q. Where were you that day?
A. I was there at Hartford.
Q. Buying groceries again that day?
A. No, sir, the day that you say Prairie Creek burned up, I was over in Hartford, and came home that night.
Q. What was your business that day, of July 17th, that was on Friday, was it, Mr. Cluck?
A. Yes, sir, I believe it was.
Q. Now what were you doing on the 17th, on Friday?
A. I was in Hartford.
Q. Buying groceries again?
A. We done all of our trading in Hartford.
Q. You were in Hartford on Wednesday and bought groceries and then were in Hartford again on Friday, and bought groceries again?
A. I know I was in Hartford.
Q. Buying groceries?
A. I won't say that day; we done that trading that week.
Q. Have you any recollection of any business that took you to Hartford on Friday July 17th, the day of the battle?
A. No, I was in Hartford nearly every day; I had no work that I could do and I was in Hartford nearly every day.
Q. Did you have any recollection of what occurred on the day of the battle?
A. I was in Hartford knocking around is all I can tell you.
Q. Then you have no recollection, as I understand you,—I want to be fair with you, and you have no recollection of anything that occurred on the day of the battle?
3890 A. I went to Hartford that day, and was in Hartford until after night, and stayed there.
Q. Did you see anybody in Hartford that you knew?
A. Yes, sir, saw lots of them.
Q. Who were they? A. I saw lots of them on the street.
Q. Did you see Jim McNamara?
A. Yes, sir, I seen him about in Hartford.
Q. See Slankard? A. Yes, sir.
Q. See Goddard? A. Yes, sir.
Q. See the mayor? A. Yes, sir.
Q. Have any talk with them? A. No.
Q. None of them? A. No.
Q. You didn't hear anything of the battle at all, did you?

A. Not until it was going on.
Q. Not when it was going on?
A. Not until it was going on.
Q. Oh, until it was going on. When did you first hear of the battle? A. Along about 9:00 o'clock in the morning.
Q. From whom did you hear it? A. What?
Q. From whom did you hear it?
A. You could see the shooting.
Q. What? A. You could hear the shooting.
Q. You heard it yourself? A. Yes, sir.
Q. Was that before you left home?
A. No, way after that time.
Q. You had got to Hartford before you heard anything about it? A. Yes, sir.
Q. You didn't see any armed men in Hartford?
A. No, sir.
Q. You didn't see anybody with shotguns or Winchesters either one in Hartford? A. No, sir.
Q. Either going to Hartford or coming away?
A. No, sir.
Q. You didn't see any armed men there? A. No, sir.
3891 Q. You didn't see any men going to or coming from Hartford armed?
A. Not that I could say was going to or from Prairie Creek.
Q. You didn't see any men that were engaged in the battle that you could recognize? A. No, sir.
Q. Did you see any man that was engaged in the battle that you could tell who he was?
A. I was not down there, and how could I tell without being down there?
Q. I didn't understand you.
A. How could I tell without being down there, I was not down there.
Q. You saw some men in Hartford?
A. But the battle was not in Hartford.
Q. But some of the men went from Hartford and engaged in the battle? A. I couldn't tell you.
Q. You don't know as to that? A. No, sir.
Q. You were a member of the union at the time?
A. Yes, sir.
Q. Did you hold an office in the Union? A. No, sir.
Q. Of what union were you a member?
A. United Mine Workers.
Q. Of what local? A. It was located at Frogtown.

Q. 2110? A. Yes, sir.
Q. The Frogtown Local? A. Yes, sir.
Q. Or Camp Beulah local? A. Yes, sir.
Q. I will ask you to read from Plaintiffs Exhibit No. 31 Z an article which appears in the United Mine Workers Journal dated July 23, 1914, found on page 7 of that date. Will you read it, Mr. Cluck? It is headed "From Arkansas"?
A. I can't see it.
Q. Have you your glasses? A. No.
3892 Q. Will you try to use mine?

The Court: Read it to him if he can't read it,—gentlemen, I think we will give the jury their usual time for recreation.

(A recess was here taken of five minutes.)

3893 Q. Mr. Cluck, I will read to you the communication in the Mine Workers Journal about which I was asking you (reading):

"From Arkansas.

The Strike Is Still On.

I want space in the Journal to tell of some of the conditions existing at Prairie Creek No. 4.

We had a little trouble here on Saturday night July 12th. Some of the scabs got out of the bull pen and started to shoot up camp Beulah, at the Mammoth Mine. There was quite a number of shots fired, but none of the miners or their families were injured.

The men are firm and out to win. Everything has been quiet since Sunday night. Our District President and some of the boys have been on trial over an injunction.

We are asking all men to stay away from here until this trouble is settled, as it is supposed they have agents out looking for men. Will give you the news through the Journal.

We have the regular type of scabs at this place.

W. H. CLUCK."

Did you send that in to the Journal? A. Yes, sir.

Q. I will read you another article from the same exhibit, at page 7, from the Journal of July 9th, 1914, as follows (reading):

"Fight on at Hartford.

Hartford, Ark., July 3.

I wish to have a few words in the Journal in regard to the strike here at No. 4, Prairie Creek, for which they are scabbing, and furthermore new men are coming in from all over the country. Some think No. 4 is working under union conditions and I wish to help strangers out so they will
3894 not come to Prairie Creek No. 4.

The Bache and Denman Coal Co. have wires around the shaft and tents in the bull pen in which they have about 120 scabs and new ones coming in every day. The company has put the union miners out of their houses so they may have more room for more scabs. The men here are in tents in the backwoods, so do not let the labor agent talk you into coming to Prairie Creek No. 4. We are out to win and we intend to do so. We have a strong bunch of scabs here. We have scabs from Spadra, Ark., and U. S. gunmen who have come here from Colorado to guard the Arkansas scabs.

W. H. CLUCK."

Q. Did you write that and send it to the Journal?
A. No, sir.
Q. Didn't you send this one to the Journal that I have just read? A. No, sir. I did the first.
Q. You did not send the second one that I read?
A. No, sir.
Q. You did not mail it?
A. No, sir; but the other one I did.
Q. Did you have anything to do with the publication of this last one? A. No.
Q. Nothing whatever? A. No, sir.
Q. Is there any other W. H. Cluck down there?
A. No, not that I know of.
Q. You are the only man there by that name? A. Yes.

Mr. McDonough: That is all.

Witness excused.

3895 W. J. JENKINS, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name, please, to the court and jury?

A. W. J. Jenkins.
Q. Where do you live, Mr. Jenkins?
A. At St. Louis, Missouri.
Q. How long have you lived in St. Louis?
A. Since 1903.
Q. What is your occupation?
A. Vice President and General Manager of the Consolidated Coal Company of St. Louis.
Q. Where does that company operate its mines?
A. Entirely in the state of Illinois.
Q. When did you go with that corporation?
A. I think it was about four years ago. I would not be positive as to the exact date.
Q. With what companies were you connected prior to that time?
A. From 1903, to May 1st, 1917, I was also connected with the Western Coal & Mining Company in various capacities.
Q. Where did the Western Coal & Mining Company operate coal mines?
A. That company operated in the states of Missouri, Kansas, Arkansas and Oklahoma during that period.
Q. In four states?
A. Yes, during the period I just referred to, from 1903 to May 1st, 1917.
Q. Did you hold any position with the Missouri Pacific Railway, or what is known as the Iron Mountain, during that period?
A. I was for quite a period of time assistant fuel agent of the Missouri Pacific, Iron Mountain System, and later
3896 on was also fuel agent of the same system.
Q. Who did you succeed in that position?
A. Mr. B. F. Bush.
Q. Who is now the President of the Missouri Pacific Railway Company? A. Yes, sir.
Q. Mr. Jenkins, during the period you have referred to, were your coal companies at any time members of what is known as the Southwestern Interstate Coal Operator's Association, I mean the Western Coal & Mining Company?
A. The Western Coal & Mining Company was a member and, to the best of my knowledge, is a member at the present time of the Southwestern Interstate Coal Operators' Asociation.
Q. Were they members from the organization of that Association? A. They were.
Q. And have been at all times since?
A. To the best of my knowledge they have.

Q. When was the Southwestern Coal Operators' Association organization?

A. During the year of 1903 at Pittsburg, Kansas.

Q. 1903? A. Yes, sir.

Q. That was the second year in which the miners and operators had held a conference, was it not, looking to the negotiation of contracts?

A. I cannot state positively as to that because I came down here during the year 1903.

Q. Were you in the Pittsburg Conference in 1903?

A. In the organization of the Operators' Association? Yes, sir.

Q. Was Mr. Bush also in that conference?

A. He was not present at the organization. He was present at the wage scale conference. Mr. Bush was in the
3897 East at the time of the organization.

Q. How many conferences have you attended as a delegate or representative of your coal companies since the organization of the Association in 1903?

A. I am unable to state definitely, but off and on practically all of the time.

Q. Did you at any of those conferences meet Mr. Franklin Bache, the President of the plaintiffs companies here?

A. Numerous times.

Q. Mr. Jenkins, in either of the conferences, from 1903 up to 1914, did the operators in those conferences have any agreement or contract or understanding with the miners' organization by which its members were to go out and through force and violence, or by any other method, obstruct interstate commerce in non-union coal?

A. To the best of my knowledge they did not at any time.

Q. Did they ever at any time, in either of the conferences, have any contract, agreement or understanding of any kind or character whatever by which the miners in consideration of the coal operators operating their properties with union labor were to go out and commit murder or arson in order to get rid of the means of producing non-union coal, and keep it off of the market in competition with union coal?

A. No, sir.

Q. Was there any such thing ever discussed?

A. There was not.

Q. Were you a member of the conference in 1910 at Kansas City? A. I believe I was, I am pretty sure that I was.

Q. Was Mr. Franklin Bache in attendance on that conference at any time during that period as a representative of the plaintiff companies here? A. He was.

3898 Q. Mr. Jenkins, is it not a fact that the operators at Kansas City during the conference of 1910, in which conference Mr. Bache participated, made an agreement to appropriate so many hundred thousands of dollars to carry on a campaign in opposition to the miners?

Mr. McDonough: The plaintiffs object to that as leading.

Q. Is it a fact or not? A. I did not get that question.

The Court: Just a moment. I do not quite catch the relevancy of that, Mr. Covington.

Mr. Covington: Here is the question: Mr. Bache testified the other day that he never had been willing to sign a contract; that he had always wanted to fight the union, and I am seeking to show by this that he had an opportunity to engage with his fellow members in a fight against the organization of the Southwest, and instead of standing up to the agreement, he made a private contract and proceeded to operate with union labor.

The Court: I think that would be immaterial. I do not think that is material to the issues here. The objection is sustained.

To which ruling of the court the defendants, and each of them, then and there, duly excepted and still except.

Q. Mr. Jenkins, are your coal companies members of the Illinois Coal Operators' Association?

A. They are members of the Illinois Coal Operators' Association at the present time and also of what is known as the Fifth and Ninth District Coal Operators' Associations.

Q. Of what is the Fifth and Ninth Districts composed?

A. They are in the state of Illinois also. There are

3899 three associations in that state.

Q. Have you ever attended any of the conferences of the central competitive field? A. I have, yes, sir.

Q. What conferences were you in, in the central competitive field? What years?

A. I was in the last,—since I have been connected with the Consolidated Coal Company.

Q. You were not a member or delegate to the conferences before 1914? A. No, sir.

Mr. Covington: That is all.

Cross-Examination

By Mr. McDonough:

Q. What are your initials? A. W. J.

Q. Where is Mr. Bush now?
A. He was in St. Louis yesterday.

Mr. McDonough: That is all.

Redirect Examination

By Mr. Covington:
Q. Is he coming here this afternoon, do you know?
A. Sir?
Q. Do you know whether he will be in this afternoon?
A. I do not know. He was in his office yesterday, I saw him in his office yesterday. I just noticed him in there, I did not speak to him.

Witness excused.

3900 G. W. DUNN, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. G. W. Dunn.
Q. Mr. Dunn, talk loud enough so that these gentlemen back here can hear you. A. I will try to.
Q. Where do you live, Mr. Dunn
A. I live about three quarters of a mile southeast of Howe, between Prairie Creek and Hartford.
Q. How old are you? A. Nearly 68.
Q. Did you live in that neighborhood in 1914?
A. I lived right there 12 years.
Q. What is your occupation?
A. Not much of anything now. I farm a little now.
Q. Were you farming in 1914? A. Yes.
Q. You are not connected with the miners' organization in any way? A. I have belonged to them ever since,—
Q. Are you a member now? A. Yes, sir.
Q. Were you a member in 1914? A. Yes, sir.
Q. But you were not engaged in mining?
A. No, sir, I have not worked in or around the mines for about six years.
Q. Mr. Dunn, how close is your farm to Prairie Creek No. 4?
A. It is just a little catercornered across two quarters, about three quarters of a mile.
Q. Did you, in the spring and summer of 1914, have any trouble with the guards?

A. No, sir, I didn't have any trouble with them, only the shooting down on the creek there where they was in
3901 swimming.

Q. Describe that to the jury. Tell what they did.

A. Well, now, I and my son were plowing over there and they was down 40 or 50 yards away from us in swimming there in the creek and they began shooting so close to us that it scared the mules and I could not drive them on that side of the field until they went away, and we sat down there about an hour until they went away.

Mr. Hull: We cannot hear the witness.

The Court: The court cannot hear the witness.

Q. Talk a little louder, Mr. Dunn, if you can.

A. I have an awful bad cold.

Q. You say the bullets came pretty close to you?

A. Yes, they whistled awful loud, they whistled so loud it scared the mules.

Q. How often was that repeated? A. The shots?

Q. Yes. A. Oh, four or five.

Q. Was it more than one time?

A. Only one time in the field.

Q. Was there any shots fired in or around your premises at any other time?

A. Oh, yes, down on the creek they were often firing.

Q. Was that firing by these folks from No. 4, or do you know? A. I suppose so.

Q. How close is the swimming hole that they were going in to your residence?

A. A quarter of a mile, just across the forty.

Q. Was there anyone else working in that field besides you and your son? A. Not at the present time.

Q. At that time, I mean? A. No.

3902 Q. Was there any other shooting that you know of by the guards at No. 4?

A. There was shooting down on the creek often, where they were swimming, and up on the public road.

Q. The swimming hole is right on the public road, is it?

A. Yes.

Q. About how many were in there?

A. Oh, I dont know, I never counted them. Sometimes there was a pretty good crowd. Some would be in the creek and some would be on the outside.

Q. That is a public road, traveled by the public?

A. Yes, it is a county road.

Q. What was the state of mind in the community there with refernece to the treatment that people were receiving at the hands of these guards?

A. I dont know much amout it.

Mr. McDonough: I object to that, if the court please.

The Court: He said he did not know, and I guess that ends it.

Mr. Covington: That is all.

Cross-Examination

By Mr. McDonough:

Q. Mr. Dunn, you spoke of hearing the bullets whistle when you were in your field? A. Yes, sir.

Q. Can you tell when that was?

A. Yes, sir, it was along about the last of June or the first of July. I would not say what date it was.

Q. Of 1914? A. Yes, sir.

Q. Did you see the party who was doing the shooting?

A. I did.

Q. Did you know who it was?

A. I could not tell their names. I know they belong to Denman & Bache over there.

Q. How do you know that?

3903 A. I passed right by there from one to three times a week.

Q. Did you know what they were shooting at?

A. No, I dont know whethere they were shooting at me or not, but it was close enough to have the bullets whistle.

Q. You had had no trouble with them at any time?

A. No.

Q. And you didnt know what the shooting was about then?

A. I suppose they were just trying their guns. That is all I know.

Q. Trying their guns?

A. Yes. I didnt think they were shooting at me, for I was not over 60 or 70 yards from them.

Q. You were 60 or 70 yords from the persons that shot the guns? A. Yes.

Q. Was there more than one gun shot at that time?

A. I dont know whether it was more than one or not, they all had guns.

Q. Do you know of more than one gun that was fired?

A. There was more than one shot, but I dont know whether it was more than one gun or not.

Q. About how many shots were fired at that time?

A. Four or five.

Q. What time was it?
A. About nine o'clock in the morning.
Q. And that was along about the latter part of June or the first of July? A. Yes.
Q. You heard four or five shots that time?
A. Yes, I know there was; I could hear that many bullets whiz.
Q. That is your best judgment, that it was four or five shots? A. Yes.
3904 Q. Was it the same man that fired all four or five shots? A. I dont know.
Q. Is it true that you did not see the man firing the shots?
A. The men were right there on the creek. It was 40 or 50 yards from the fence. I dont know which of the fellows fired the shots. I went to the other side of the field and sat down.
Q. Do I understand you to say that you did not see the man that did the shooting?
A. I dont know which one was doing the shooting.
Q. You did not see the man that was actually doing the shooting at the time the shooting occurred?
A. No, I did not see the man that was doing the shooting right at the time.
Q. You did not see the man that was firing any one of those four or five shots at the time the shots were being fired?
A. I was not down there at the creek.
Q. That is what I mean. So you did not see the man doing the firing?
A. I did not see the man personally that did the firing. I could not say which one done the firing. It was one in the bunch.
Q. What direction was your farm from Mine No. 4?
A. Southwest.
Q. How far would you say it was?
A. Just a little catercornered across two quarters, three quarters of a mile.
Q. Did your farm, or any part of your farm, come any nearer than three quarters of a mile of the mine?
A. It came up right close to the pump station, about two hundred yards of what they called the pump station down on the creek.
Q. And you say your farm was about three quarters of a mile southwest of there? A. No, southeast.
3905 Q. Did you live on the railroad or near the railroad?
A. No, sir.
Q. Does the Midland Valley run through your farm?

A. No, sir.
Q. You lived on the public highway, did you?
A. I lived on the county road.
Q. The county road from where?
A. From James Fork across to Andy Morrow's.
Q. You spoke of hearing some shooting?
A. Yes, I heard it every day.
Q. Was the only shooting you heard what you have already described? A. No, sir.
Q. Did you hear other shooting? A. Yes.
Q. When did you hear other shooting?
A. Every day pretty near.
Q. Every day? A. Yes.
Q. Did you see any of the men that were doing the firing of the other shots? A. No, sir.
Q. During all that time did you see any man firing any shots? A. No, sir.
Q. Did you say there were some shots fired where some men were bathing in a creek?
A. I heard them shooting down there and I would go down and they would be bathing in the creek. I went down there several times.
Q. Did you see any of the shots, or any of the shooting, at that time from any of the men?
A. No, I didnt see them shooting.
Q. You heard the shooting down on the creek?
A. Yes.
Q. But you did not see the man that did the shooting at the time the shooting was being done?
3906 A. No, I didnt see anyone doing the shooting, no.
Q. Did you see anyone in swimming the year before in 1913? A. Oh, yes.
Q. In 1915 was that swimming kept up at that place?
A. There was not much swimming down there. They generally came up on my place to swim.
Q. I am asking you if people generally went in bathing there at that stream of water? A. No, sir.
Q. But they did it in 1913?
A. Once in a while some of the boys would go in there.
Q. And in 1915 some of the boys would go in there?
A. Yes.
Q. And in 1916 some of the boys would go in there?
A. Yes, sir, but they generally went in on my place. There was a big swimming hole up there and they came from Huntington and everywhere else. There was 15 feet of water.
Q. Mr. Dunn, you are on the pension list, are you?

A. Yes, sir.
Q. Under old age pension? A. Yes, sir.

Mr. McDonough: That is all.

Redirect Examination

By Mr. Covington:
Q. The parties who were in swimming, did they have a lot of guns and shooting across your farm prior to that time?
A. At what time?
Q. In 1913?
A. No, sir, they didnt have any guns at all then. They were nothing but boys. No men went swimming down there.
Q. The guns you say you heard firing around there, was that in the direction of the mines? Did the reports
3907 come from the direction of the mines?
A. Yes, the firing was off north of me. There was none south.

Mr. Covington: That is all.

Recross Examination

By Mr. McDonough:
Q. Is Pink Dunn related to you?
A. He is supposed to be my son.
Q. He is your son?
A. He is supposed to be.

Witness Excused.

3908 WALTER DUNN, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. Walter Dunn.
Q. Where do you live?
A. I live about a mile southeast of No. 4 Prairie Creek.
Q. Where were you living in 1914?
A. At the same place.
Q. How old are you? A. 22.
Q. Were you living with your father in 1914?
A. Yes, sir, I was then. I don't live there now. I live about a quarter of a mile further east.
Q. You are married now? A. Yes, sir.
Q. Mr. Dunn, were you in the fields out on your father's plantation some time in the summer,—in the latter part of June or the first part in July, when some shots were fired by the guards at Prairie Creek? A. Yes.

Q. Tell the jury what occurred there.
A. We were out there plowing corn and there were several shots fired and the bullets whistled right close to us and some of them hit around in the timber, and we could not get the mules to go to that end for a long time and we had to sit down and rest. And we went to the house for dinner and came back that evening and quit about 4:00 o'clock and papa went to Midland to see if he could not have it stopped.
Q. Where did the shots come from, if you know?
A. They came from down the creek, down towards that pump station.
Q. Talk louder so that the jury can hear you.
3909 A. They came from down the creek.
Q. Down from where some men were in swimming?
A. Yes, sir.
Q. From that direction?
A. Yes, it was north.
Q. Were they men from Prairie Creek, or do you know?
A. Well, I could not swear that they were, but I just supposed that they were because they were always down there shooting.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:
Q. You did not see the men that were doing the firing?
A. We could just see them once in a while.
Q. Mr. Dunn, did you see any man at the time he was firing a gun? A. Yes, sir.
Q. Who was it?
A. I don't know, I don't know their names.
Q. You spoke of shots being fired at other times?
A. Yes.
Q. Did you see any of the men that were firing the other shots? A. Yes, sir.
Q. Did you know them? A. No, sir.
Q. You did not know who they were? A. No, sir.

By Mr. Covington:
Q. You know the union miners around that section, don't you? A. Yes, sir, I have lived there all my life.

By Mr. McDonough:
Q. Do you know all of the miners? A. Yes.
Q. Where were you on the 17th of July, the day of the battle? A. At home.
Q. You did not see any union miners that day?
A. No, sir.

Q. None at all? A. No, sir.
Q. Did you hear any of the shots? A. Yes, sir.
Q. Many of them? A. Yes, sir.
3910 Q. How many? A. I could not tell.
Q. Your home is southeast of Prairie Creek No. 4?
A. Yes, sir.
Q. And about how far from Prairie Creek No. 4?
A. Just about a mile.
Q. A mile? A. Yes, sir.
Q. Is it open space between your home and Prairie Creek so you can see the tipple at Prairie Creek?
A No, sir, there is a big bluff between us three or four hundred feet high.
Q. That firing was on top of that bluff?
A. It was over the top of the bluff.
Q. What do you mean?
A. It was beyond the bluff.
Q. From you? A. Yes.
Q. You couldn't see the smoke of those guns?
A. No, sir.
Q. But you could hear the guns? A. Yes, sir.
Q. Were there very many? A. Yes, sir.
Q. About how many?
A. Oh, I couldn't guess.
Q. And you did not go over there at all? A. No.
Q. Are you a union miner? A. Yes.
Q. Were you at that time? A. Yes, sir.
Q. But you did not go over there that day?
A. No, sir.
Q. Did you know what was going on?
A. I didn't know, but I had an idea what was going on when I heard the shots.
Q. How did you get that idea?
A. I just drawed the idea.
Q. What did you draw it from?
A. Well, I don't know.
Q. Had you been over to Hartford the day before, on Thursday the 16th? A No, sir.
Q. Had you been to Midland the day before?
A. No, sir.
Q. Or to Prairie Creek? A. No, sir.
Q. Had you been to Huntington? A. No, sir.
3911 Q. You had not been away from home at all?
A. No, sir, I didn t make a practice of going around for I was afraid of those fellows.
Q. Were you working in the mine at that time?
A. No, sir.

Q. Were you doing anything at all?
A. Just working on the farm.
Q. Were you getting benefits from the miners union?
A. Well, I don't remember whether I was right then or not.
Q. You had been before that time? A. Yes, sir.
Q. You considered that you were out on a strike?
A. Yes, sir.
Q. And entitled to benefits? A. Yes.
Q. And either drew them at that time or had got them before that time? A. Yes, sir.
Q. And got them after that time?
A. I don't remember whether I got them after that time or not.
Q. You can't recollect that? A. No, sir.
Q. Pink Dunn is a brother of yours? A. Yes, sir.
Q. Where is Pink Dunn?
A. Well he is at Midland I guess.
Q. You don't know where he was that day either, do you?
A. No, sir.
Q. Was he at home?
A. He lived at Midland during that time.
Q. He lived at Midland? A. Yes, sir.
Q. And you do not know whether he was at home or not? A. No, sir.
Q. You were not over at Midland that day at all?
A. No.
Q. You made no inquiry as to what was the cause of all that shooting that day?
A. I seen no one to inquire of, just the home folks.
Q. And you did not go over there to find out?
A. No, sir.
3912 Q. What age are you now? A. 22.
Q. Were you a member of the union at that time?
A. Yes.
Q. And you were still that day, were you? A. Yes.
Q. Did you hear as many as a thousand shots that day?
A. Well, I guess I did.
Q. Did you make any investigation of the cause of what the trouble was? A. No, sir.
Q. But still you had an idea what it was? A. Yes.
Q. And that was that they were cleaning up No. 4?
A. I didn't know whether it was that or something else.
Q. Was it your idea that the scabs were going to be cleaned up by the union? A. I don't know.

Mr. McDonough: That is all.

Redirect Examination

By Mr. Covington:

Q. Mr. McDonough asked you concerning a strike. You referred to it as a strike, but as a matter of fact you were locked out, were you not? A. Yes.

Q. And you were entitled to aid under the rules of the organization in lock-outs, the same as strikes?

A. Yes, sir.

(Witness excused.)

3913 CLIFF SLOAN, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. State your name. A. Cliff Sloan.

Q. Where do you live? A. At Howe, Okalhoma.

Q. What is your occupation? A. Farming.

Q. Where did you live in 1914?

A. About a half a mile southeast of No. 4 Prairie Creek.

Q. Were you living there in April, May June and July of that year? A. Yes.

Q. Did you cultivate land near there? A. Yes, sir.

Q. How far was your farm which you cultivated the crops on from No. 4?

A. It was something like a half a mile, possibly a little further.

Q. Where did your house stand with reference to the tipple? A. Well, it was,—

Q. (Interrupting.) Could you see the tipple from your house?

A. No, sir, there was a high ridge between where I lived and the No. 4 tipple. I lived on the bluff like.

Q. Did you live there all the summer?

A. No. I moved up to Mr. Smedley's the fellow I rented the land from.

Q. How far away was that?

A. Something like a quarter of a mile.

Q. What was the occasion of your moving from this place?

A. Well, I moved away from there,—the non-union men on the bluff around the house and would roll rocks off and were shooting around there and it was not safe to live there with my family while I was out in the field to work. and I moved away from there. I didn't feel safe.

3914 Q. You had your family with you? A. Yes, sir.

Q. Describe that to the jury, that rock business you spoke about.

A. Well, those guards were on the bluff and sometimes they were on a station, something like the soldiers guard places, up along the top of the bluff, and I lived down under the bluff something like 300 feet from the top of the bluff, down on the level land, I lived just below that bluff. And there were continually rolling rocks off and they were rolling around the house, and they were shooting around there and I didn't feel safe to leave my family there and stay there. I couldn't lay down to sleep and feel safe at night and so Mr. Smedley had a blacksmith shop and up by the side of the blacksmith shop he had a shed which was covered with an iron roof where he kept the farming implements and I went over there and I put some canvas up around the shed and moved into it and stayed there and gathered my crop.

Q. Was there any shooting going on down there before you moved away?

A. Yes, sir.

Q. Describe that.

A. Well, they was just shots fired around the bluff, above where I lived,—all of the bluff there.

Q. Did the sound of the guns, was that along up where the guards were or not? A. Yes.

Q. Are you a member of the union? A. No, sir.

Q. Were you a member of the union then? A. No, sir.

Q. Have you ever been a member of the union?

A. Well, I could not say that I ever was. I worked some there at the mines. I done carpenter work, but I never attended any of the locals.

Q. You were not digging coal?

A. No, sir, I done some carpenter work there.

3915 Q. You had no connection with the union? A. No, sir.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:

Q. Mr. Sloan, you were half a mile, as I understand you, southeast of Mine No. 4? A. Something like that, yes, sir.

Q. When was it that you moved away from there?

A. I moved from there,—well, sometime along before the 17th of July.

Q. How long before the 17th of July did you move out?

A. I think a couple of weeks or something like that, maybe three weeks or a month.

Q. Were you acquainted with any of the union miners that lived there? A. Yes, sir.
Q. Did you know many of them? A. I knew several.
Q. You knew some of them that worked at Prairie Creek No. 4? When it was working under union conditions, did you?
A. Yes.
Q. You were a friend of some of those?
A. Yes, sir, I considered them my friends.
Q. Name some of them.
A. Well, I knew Bill Welcher the engineer and John Reed that used to be engineer there.
Q. John Reed?
A. Yes, and Charles McCannon the Blacksmith.
Q. Who else? A. I can't name them all.
Q. Did you know Clint Burris? A. Yes.
Q. Did you know John Manick? A. Yes, sir.
Q. Did you know Charlie Robinson? A. Yes.
Q. Did you know Sandy Robinson? A. Yes, sir.
Q. And you had been acquainted with them for some time?
3916 A. Yes.
Q. And they knew where you lived?
A. Yes, sir, I think so.
Q. How far was this from the town of Prairie Creek?
A. Well, it was three-quarters of a mile I guess.
Q. How far was it from the road [corssing] where the Midland Valley crosses the public road? A. At Prairie Creek?
Q. Yes.
A. About three quarters of a mile or possibly further.
Q. Were you present at the school house on April 6th?
A. No, sir.
Q. You did not go over there at all that day? A. No, sir.
Q. Did you know about it? A. Not until after it was over.
Q. You heard of it afterwards; did you hear of it during the day of April 6th? A. No.
Q. Did you see the men that were doing the shooting that you have described? A. You mean down on the bluff there?
Q. Yes. A. Yes, you could see them.
Q. Did you know them? A. No, sir.
Q. Did that shooting keep up as you have described for some days?
A. Yes, sir, possibly maybe one day and then maybe it would be several days before there was any more shooting around there; just a day now and then.
Q. You did not know any of the men that did the shooting?
A. I don't know them personally.

Q. Was this in the night time or in the daytime?
A. Generally in the daytime.
Q. Was it practice shooting they were doing?
A. I couldn't tell.
Q. If you could see them you could tell whether they were shooting at a mark, couldn't you?
A. I saw them up on the top of the bluff shooting.
3917 Q. But you could not tell whether they were shooting at a mark or not? A. No.
Q. How far is the top of that bluff from Mine No. 4?
A. Well, it is something like a half a mile, hardly that far maybe.
Q. What direction is Mine No. 4 from the top of that bluff?
A. It is north of the bluff.
Q. Where did you move to when you went away?
A. I moved a half a mile south of where I was.
Q. Did that put you nearer the mine?
A. No, sir, farther from it.
Q. You were half a mile southeast of the mine?
A. Yes, sir.
Q. I didn't understand you, you were half a mile southeast of the mine, is that right? A. Yes, sir.
Q. And then you moved still further south? A. Yes
Q. And that put you further away from the mine?
A. Yes.
Q. That left you how far from the mine?
A. About three quarters of a mile.
Q. Where were you on the 17th of July?
A. At Howe, Oklahoma.
Q. You were at Howe Oklahoma?
A. Yes, in the morning.
Q. How did you go, on the railroad?
A. Yes, sir, I went down there on the train three or four times. I went over there to see a brother-in-law of mine who was farming over at Howe.
Q. Did you come back on the 17th?
A. I landed at Hartford at 3:00 o'clock in the afternoon of the 17th.
Q. Did you go from there to the mine?
A. No, sir, I went home. I say I went home,—I didn't go home, but I went to a place nearby on the same farm I was farming, at Bob Pickell's.
3918 Q. You did not go home? A. No, sir.
Q. You were a married man at that time?
A. Yes, sir.
Q. And you left your family at home?
A. No, sir, my family was down at Howe.

Q. You did not bring them back with you then?
A. No, sir.
Q. You took them over to Howe with you when you left this place? A. Yes.
Q. That was on the 16th or the 17th?
A. It was before that.
Q. Several days before this battle?
A. Three or four days, yes, sir.
Q. And you took your family and went over to Howe?
A. Yes, sir.
Q. Howe was about how far away? A. Eighteen miles.
Q. You spoke about whether or not you were a member of the union. Were your wages checked off while you were working? Did they take a check-off off your wages?
A. Yes, sir.

Witness excused.

3919 ED ABLES, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. Ed Ables.
Q. Mr. Ables, where did you live in the summer of 1914?
A. At Camp Beulah.
Q. At what is called Prairie Creek?
A. Yes, sir,—Frogtown.
Q. Did you know any of the guards or employees of the Bache-Denman Companies at No. 4?
A. Know any of them?
Q. Yes. A. No, sir, I didn't.
Q. Did you know them when you saw them?
A. Well, no, I didn't know all their names personally.
Q. I don't mean that. Did you see them going in and coming away from the mines? A. Yes, sir.
Q. Were they armed? A. Part of them was, yes.
Q. Part of them were armed? A. Yes.
Q. Did you ever visit the place over at Camp Beulah run by Macolina Dupont? A. Did they ever visit there?
Q. Yes. A. Yes, sir.
Q. In what business was she engaged? A. Selling beer.
Q. And they came over there to her place? A. Yes, sir.
Q. Did you see them there more than once?
A. Yes, sir, I saw them there several times.
Q. Did you see them there at any time in July?
A. Yes, sir.
Q. What time before the trouble at No. 4?

A. I seen them there several times during the Sunday that Camp Beulah was shot up.

Q. How did they go over there, in a car?

A. In the morning they came over there in a car and
3920 stopped the car on the top of a hill near her place and went down an alley. During the day it seems that they came down to that switch to the left of me, and my place was connected to the pasture and there was a gate at the corner of the pasture and the corner of my lot, and they came down there and went through the center of my corn patch and crossed up to Mrs. Dupont's, we called her; they went over through my corn patch to her place and crawled through the wire fence until I stopped them. I stopped a bunch crossing through my place.

Q. Did you have crops there?

A. I had a truck patch. I had put it in corn that year.

Q. And they walked across that? A. Yes.

Q. Did they ever become intoxicated on any of these trips and use any kind of language?

A. Not that I know of. They seemed to carry stuff off. They seemed to be going in there and getting the stuff and carrying it away.

Q. In what direction were they taking it?

A. Toward No. 4. They would come out and go toward No. 4.

Q. Were you in Frogtown the night it was shot up?

A. Yes.

Q. What did you do? A. I [emigranted].

Q. Where did you emigrate? A. To Hartford.

Q. Did you take your family with you?

A. Yes, sir, I sure did.

Q. When did you come back?

A. Not until after the 17th, that is my family didn't. I came back to feed the chickens and the pigs.

Q. Then you would go back to Hartford?

A. Yes, sir, backwards and forward.

Q. You were a miner there too? A. Yes, sir.

3921 What time of the year was that shooting that occurred on Sunday night?

A. The first one was early. Mr. wife and I had laid down and dozed off to sleep and they commenced shooting and it woke us up. Usually, around Hartford, when a shooting takes place that way it is a fire alarm. And my wife said to me, "Ed you better get up there is a fire somewhere." And I got up and went to the kitchen door. It is not really the kitchen door, we use it for a bed room, but it is on the kitchen side of the house and it sets up against the house like that (indicating) and it is a door in the end of it. I went to that door

and opened the door and looked out and on the lower end of my lot was where the shooting was taking place. I still didn't think anything much about it and after the shooting died down I went back to bed and went to sleep.

Q. I thought you said you went to Hartford.

A. I did go to Hartford. I went back and went to sleep. Later then,—my son was at Hartford that night, and my son came in. He was cut off by those shots. He had started home and was cut off by the shots, and he came to the fence and hollered. I was asleep and he came to the door and rapped on the door and said, "Papa, are you all killed?" And I was excited and just jumped up and said, "What is the matter?" And he said "The scabs have got the place surrounded and are shooting up Frogtown." I said, "Is that what the shooting was?" And he said, "Yes, you better get up and get out," and I did so.

Q. And you got up and went to Hartford with your family?

A. Yes, sir.

Q. What time of the night was that?

A. About 11:00 o'clock.

Q. You lived on the outskirts of Frogtown on the hill?

3922 A. No, right next there to the creek in the east corner.

Mr. Covington: Take the witness.

The Court: We will now take our noon recess until 2:00 o'clock this afternoon.

3923 Wednesday, No. 14th, 1917, 2:00 o'clock p. m.

Pursuant to adjournment as aforesaid, court reconvened at 2:00 o'clock, p. m., Wednesday, November 14th, 1917, the parties appearing as before, and the following proceedings were had:

The Court: The witness will resume the stand.

Mr. Hull: Mr. McDonough is not here, if the court please.

Mr. Drinker: He will be here in just a second. Here he is now.

Ed Ables, resumed the stand for cross-examination:

By Mr. McDonough:

Q. Mr. Ables, what was it your son remarked when he came in?

A. Well, he said, he hollored for us and said he thought we were all killed, he said we had better get up and get out, get

away. The scabs, he called them, he said was all around the place.

Q. Your son had been at Hartford?
A. Yes, sir, he had been at church.
Q. What age was he?
A. That has been four years ago.
Q. What age?
A. That's been four years ago, he was 21 years old.
Q. 21 at that time? A. Something near 21.
Q. Was he a union miner? A. Yes, sir.
Q. Was he working at that time?
A. I dont remember whether he or I either were working at the present time or not.
Q. Had you been out with him? A. No, sir.
Q. Immediately after that you got up and left, did you?
A. Yes, sir, we got up.
Q. And took your family?
A. Partially dressed, yes, sir.
3924 Q. How many in the family?
A. My wife and three children besides the boys.
Q. All of you went to Hartford that night?
A. Yes, sir.
Q. Walked? A. Yes, sir.
Q. Where did you go when you got to Hartford?
A. Tom Quinn, a brother-in-law.
Q. Did you find them up waiting for you?
A. No, sir, we woke them up.
Q. Did you see anybody on the way to Hartford?
A. Yes, sir, lots of them.
Q. Going all the same direction you were going?
A. Yes, sir.
Q. Did you see any going the other way?
A. I cant say, there might have been some going the other way.
Q. They were neighbors that were going with you?
A. They were people from Frogtown.
Q. Did you see anybody else along there?
A. Along the road?
Q. Yes, except those that lived in Frogtown?
A. No, sir.
Q. How far is it from Frogtown to Hartford?
A. It is called two miles.
Q. Two miles. Where did the other people go that went along with you?
A. They scattered over the town wherever they had relatives, I suppose, or any place they had friends.
Q. About how many were in that crowd?

A. Oh, I cant say.
Q. Give your best estimate of the number of people that were along with you?
A. I couldnt say, they were in front of us and behind us.
Q. You were there?
A. Oh, yes. My family was all that was in my bunch.
3925 Q. About how many men do you think were along, and women and children, altogether?
A. I cant say, they were behind and in front, too.
Q. Was there a hundred?
A. No, there was not that many in camp, I dont suppose.
Q. What? A. There was not that many in camp?
Q. How many were there then, twenty-five?
A. Oh, there was that many or more.
Q. Where did your son work at that time, I didnt understand you?
A. I say I dont remember, I cant remember whether he was working anywhere or not. No. 7 Central was the last place where either of us worked.
Q. You are not working now? A. Yes, sir.
Q. Where now? A. Roughley's.
Q. And where is your son working now?
A. Bull Moose.

Redirect Examination

By Mr. Covington:
Q. Mr. Ables, I don't know that I understood you, but you said at the time of the first shooting you were in the bed?
A. Yes, sir, at the first shooting we were in the bed.
Q. And then your son came up and aroused you, and you started off, and how far from the house did you get before the second shooting began?
A. We just cleared Frogtown.
Q. How was the shooting as to the number of shots, a great many?
A. I couldnt be safe in saying how many shots there were fired.

Mr. Covington: That is all.

Recross Examination

By Mr. McDonough:
Q. Give your best judgment of the amount?
3926 A. Oh, I dont know.
Q. Two or three hundred shots?
A. Well I dont know, there were lots of shots, I couldnt say how many.
Q. Pistol shots?

A. They were too big for pistol shots.
Q. Could you tell us whether they were shot guns or rifles?
A. I couldnt tell whether they were shot guns or rifles, but they were too heavy for pistol shots.

Witness Excused.

3927 DR. V. V. BUTLER, called as a witness in behalf of the defendants, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. Dr. Butler.
Q. What are your initials? A. V. V.
Q. Where do you live, Doctor? A. Huntington.
Q. How long have you lived in Huntington?
A. 11 years.
Q. Do you remember the day that the Coronado mine burned in 1914 in July? A. Yes, sir.
Q. Were you by there that day? A. Yes, sir.
Q. Tell the jury what you saw, Doctor, as you were passing there,—who was with you, first?
A. My wife and I were going over to Arkoal, and I had a couple of patients over there, and the road crosses the railroad track above the mine, and I happened to be looking down that way and I saw a little light under the tipple, and so I stopped and told my wife, I said,—I said, "The Coronado will be afire the first thing we know", and we stood there and watched it a few minutes, and we saw it kept getting larger and larger, and then we drove on up to the store there, just a short distance. There were three or four men sitting on the porch, and I told them, I said, "Coronado is afire, you had better go down there and put it out", and they went around and looked and couldnt see no smoke, or anything, and then they went on down there, or I suppose they did; and my wife and I went on to visit the patients, and when we came back the whole mine was afire, the whole tipple.
Q. At the time you saw it, you say it was a small light under the tipple, or elevator, or whatever it is?
3928 A. Yes, sir, it was right under the chute.
Q. Now, did you see anybody about the mine, coming away from there, crossing the field, or anybody about there at all? A. No, sir.

Cross-Examination

By Mr. McDonough:
Q. Doctor, what direction were you going?

A. I was going north.
Q. And does the road running nearby Coronado mine, is that the one that you were on? A. Yes, sir.
Q. Is it a public county road along there?
A. No, sir, it is not a public country road.
Q. Did you cross the creek about the time you get to Coronado or just before? A. Just before.
Q. And how far were you from Coronado when you first saw this light?
A. Oh, I suppose it is three or four hundred yards from where I first saw the light from the road to the tipple.
Q. What time of day was it, Doctor?
A. It was about noon.
Q. You were traveling north, you say?
A. Yes, sir.
Q. You then went on your journey, but you stopped by the store, you say? A. Yes, sir.
Q. How far is the store from the mine?
A. Well, the store,—its about a couple of hundred yards from the crossing to the store.
Q. A couple of hundred yards further away than when you first saw it? A. Yes, sir.
Q. And when you get up there you couldnt see any smoke?
A. No, sir.
Q. Could you see the tipple from the store?
[Q.] Yes. sir.
3929 Q. And you saw no smoke? A. No, sir.
Q. It was some three or four hundred yards away, at that point? A. Yes, sir.
Q. You know who the men were at the store that you spoke to? A. No, sir.
Q. You didnt know any of them?
A. Well, I knew them, of course, but I dont remember now who they were.
Q. You mentioned to them something about it, did you, there? A. Yes, sir.
Q. And all of you looked down there and didnt see anything at all? A. I did not.
Q. Didnt see any smoke? A. No, sir.
Q. Or didnt see any fire? A. No, sir.
Q. And you went on your journey then? A. Yes, sir.
Q. And when you came back, how long had you been away when you came back?
A. I guess 15 or 20 minutes, maybe a half hour.
Q. And when you came back the whole tipple was on fire?
A. Yes, sir.
Q. Where did you say the small blaze was when you first saw it? A. It was right under the chute.

Q. Can you show us, is that a picture of the tipple that is before you? A. It looks like it.

Q. Referring to plaintiffs' Exhibit 69, is that the tipple, do you recognize that as a picture of the tipple?

A. I dont know whether that is the tipple or not.

Q. You are not able to locate the blaze on that, are you?

A. May I step down here?

Q. Yes.

A. I saw the fire, the blaze, it was right under here, under this chute.

3930 Q. You recognize that now as the tipple, or a picture of the tipple? A. It looks like it.

Q. It was under the coal chute when you first saw it?

A. Yes, sir, right about there (witness indicating).

Q. How far is Coronado from Huntington where you live?

A. Two and a half miles.

Witness Excused.

3931 W. L. A. JOHNSON, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. State your name. A. W. L. A. Johnson.

Q. Where do you live? A. Kansas City, Missouri.

Q. What is your occupation?

A. General Commissioner for the Southwestern Interstate Coal Operators' Association.

Q. How long have you been acting in that capacity?

A. About five years.

Q. What was your business prior to that time?

A. Prior to that time I had been Commissioner of Labor of the state of Kansas for about 14 years.

Q. Did you have to do with the operation of coal mines, acting in your capacity as Commissioner of the Southwestern Interstate Coal Operators' Association?

A. Yes, sir, to the extent of making and enforcing, as far as our Association rules provided, the contract made with the United Mine Workers of America.

Q. Mr. Johnson, how many conferences between the miners and operators have you attended, I mean in the Southwest, all over the Southwest; either Missouri, Kansas, Oklahoma, Arkansas or Texas?

A. Two biennial conferences and several supplemental contracts.

Q. Were you at any of the conferences before 1914?
A. No, sir, not the Association conferences.
Q. Were you connected with the making of private contracts,—what I mean by that is, outside of your Association, with those that operated their mines with union labor?
A. Yes, sir.

3932 In 1899 and 1900 and 1901 and 1902 I was, or participated in the making of contracts between the individual coal operators of Cherokee and Crawford counties, Kansas, with the United Mine Workers of District 14, by merely acting in a advisory capacity; was chiarman of their joint scale committee while occupying the position as Commissioner of Labor, and merely in the interest of industrial peace and harmony of the state's industries.

Q. Mr. Johnson, the meetings,—at these meetings referred to by you, having for its object the entering into of a contract with the United Mine Workers by the Operators, was there ever any agreement betwen the Miners and Operators of any kind or character by which the Miners, in consideration of the Operators conducting their mines with union labor, that the Miners would go out and prevent the transportation of coal in interstate commerce, produced by non-union mines, and keep it off if the market in competition with union coal? A. No. sir.
Q. Was there ever any kind of a contract, agreement or understanding, of any character whatsover, entered into at any of these conferences between the Operators and Miners by which the Miners agreed, in consideration of the Operators conducting their mines with union labor, that they would go out and resort to violence, lawlessness, even to committing murder and arson in order to keep non-union coal off of the market in competition with union coal produced by them?
A. No, sir.
Q. Was there any contract, agreement or understanding of any kind or character between the Operators and Miners in either of the meetings, written, oral, express or implied, by which they were to go out and commit acts of lawlessness and violence the production of non-union coal?
A. No, sir.

Mr. Covington: Take the witness.

3933 Cross Examination

By Mr. McDonough:
Q. You made contracts with miner's unions, and operated your mines under those contracts?

A. In my official capacity, as General Commissioner for the Association, I have assisted in making the contracts in the 1914, 1916 conferences.

Q. I didn't ask you about that. I am just asking you about the things concerning which Mr. Covington asked you. You testified about making contracts around 1899. You made contracts for the union, and operated under those contracts?

A. I didn't operate.

Q. The coal companies operated under them?

A. The coal companies operated under those contracts.

Mr. McDonough: That is all.

Witness excused.

3934 F. W. LUKENS, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. Your name is? A. F. W. Lukens.

Q. Where do you live?

A. In Kansas City, Missouri.

Q. How long have you lived in Kansas City?

A. I have lived there a little over four years.

Q. Where did you reside prior to that?

A. I lived for a year in Colorado, and prior to that time in Illinois; five years prior in Illinois.

Q. Now, what is your occupation and business?

A. I am in the coal business, a coal operator.

Q. How long have you been engaged in the conduct and operation of coal mines?

A. Practically 35 years.

Q. Are you now President of what is known as the Southwestern Interstate Coal Operators' Association?

A. Yes, sir.

Q. Mr. Lukens, the properties that you have operated during the years since the inauguration of the Coal Operators' Association, the Southwestern Interstate Coal Operators' Association, have they been members of this Association, your companies?

A. Yes, sir, our companies have been members of that Association since I have been in charge of the companies.

Q. Now, have you attended the conferences between the Miners and Operators during this period? A. Yes sir.

Q. How many and what years?

A. Well I assisted in making the contracts in 1914 and 1916.

Q. Were you not in a conference prior to that time?

A. Not in the Southwest.

3935 Q. Are you acquainted with Franklin Bache?

A. No sir; I think I have seen him but I am not acquainted with him.

Q. Prior to this convention did you make what they call private agreements with the United Mine Workers to operate your mines, or did you operate them with non-union labor?

A. I have operated mines since 1897 with union labor; prior to that time, for about four years with non-union labor. That was before the union was organized in Illinois. When I first went into the business in 1881, the miners in Northern Illinois where I was operating always had more or less of a union; It was nowheres near as strong as it is now.

Q. In any of these agreements, at any time, before or after, in fact, at any time have you ever entered into any agrement, contracts or understanding or any kind or character with the United Mine Workers, by which the members of that organization were, in consideration of your operating your mines with union labor, to go out and obstruct, hinder and delay transporation of non-union coal in interstate commerce? A. No, sir.

Q. Have you ever had any kind of a contract, agreement or understanding, of any kind or character, with the United Mine Workers, by which they were to resort to violence, lawlessness, including murder and arson in order to keep non-union coal off of the market in competition with union coal?

A. No, sir.

Q. Have you ever had any contract, agreement or understanding with them by which they were to resort to all the means, all the lawless means known, to order to prevent the production of non-union coal? A. No, sir.

3936 Q. Did you ever hear of such a thing until this suit was brought,—

Mr. McDonough: Object to that.

Mr. Covington: I will withdraw it. That is all.

Cross-Examination

By Mr. Drinker:

Q. Mr. Lukens, what companies did you represent when you were back in Illinois, before 1898?

A. Before 1898 I represented first the firm of Lukens & Cavanaugh. That was my first concern, and then the Chicago Verdon Coal Company.

Q. What? A. Chicago Verdon Coal Company.

Q. And how long did you represent the Chicago Verdon Coal Company?

A. Well, I represented them from 1893 until it was consolidated with the Illinois Colleries Company, that was, as I remember, in 1905.

Q. 1905? A. Yes, sir.

Q. And then what companies did you represent?

A. I represented the Illinois Colleries Company until 1907, and then I quit them and went with the Bulgaria Coal Company, and the Imperial Mining Company, and the Bulgaria Coal Mining Company; representing the Bulgaria interests in Chicago, or their headquarters in Chicago.

Q. Now, in connection with those companies, did you attend any of the joint conferences of the miners and operators in the central competitive field?

A. Yes, sir, I have attended all of them.

Q. From 1897 until nineteen what?

A. 1912, was the last one I was in. I was out of the business for a year after 1912.

Q. Now, you took a part in those discussions at those conferences, did you? A. Yes, sir.

3937 Q. Now, in connection with those discussions, the operators were continually, were they not, at the miners for not complying with the terms of the 1898 agreement, to protect the operators against the competition of non-union fields? Was that not frequently said in the course of those discussions?

A. There was some talk about the competition from West Virginia.

Q. Were not the operators continually telling the miners, if you want to do business with us, and continue our relations, union relations, you have to unionize West Virginia and the other states that compete with us, that have a lower cost of mining, in order to protect us from that competition? Was that not the continual cry of the operators? A. No, sir.

Q. Did you not hear Mr. Robbins and Mr. Mauer and Mr. Zerbs, and the rest of those people, making statements of that kind? A. The statements were not put exactly as you put it.

Q. Tell us how it was put?

A. The miners, as you probably know, are always asking for more money, asking for an advance, and we used as an argument why they could not have that, the competition from these other states, from these non-union states, and told them in a good many instances that we could not afford to pay the advance in price, owing to the competition from these non-

union states. That in effect was what was said. Now, there would be a good many variations of that, in all probability.

Q. You remember the eighth clause of the Chicago Agreement, don't you? A. No, I don't.

Q. I will refresh your mind, then. You don't mean
3938 that you never heard that 1898 agreement discussed, as imposing on the miners an obligation to bring up the cost of non-union fields?

A. I remember that the Operators, especially the Eastern operators, had more or less to say about the competition from West Virginia, and I think, that is as I remember it now, that was a good while ago, the miners had said that they were going to organize West Virginia, and get them into the fold. Now, I don't remember the exact language of the agreement, nor do I remember the exact language of the discussion that took place, but in effect I have told you what it was, as I remember it.

Q. Don't you remember that the miners were told that they had agreed to do that in the Chicago Agreement, and later in the Pittsburgh Agreement, and later in Indianapolis, and that they were saying that, we are doing the best we can, and we would do better if you would help us; don't you remember that discussion from 1898 straight ahead in every single convention?

A. Well, I remember there was more or less talk about West Virginia, especially from some of the Eastern operators.

Q. Don't you remember that there was talk of the kind that I just summarized, in all those conventions?

A. I remember there was a lot of complaint of the competion from that field.

Q. Now, look at the eighth clause of the Chicago Agreement, and see if you remember it any more? Don't you remember hearing that clause discussed?

A. Yes, sir, I have heard this discussion of the non-union field a good many times.

Q. Don't you remember hearing the operators all the time saying to the miners, you agreed in the Chicago Agreement to bring West Virginia up to our cost, and we cannot live
3939 and pay the wages you ask us, and give you conditions you ask us, unless you comply with that agreement, and the miners saying we are doing the best we can to comply with that agreement, and we could do better if you would help us? Don't you remember that discussion now?

A. I think I have heard the miners make some sort of an answer like that, I am not sure as to the exact language.

Q. You remember that that was the general substance of it, don't you?

A. But I don't remember that the operators ever offered to help them. They threw the burden onto the miners to protect them from the competition.

Q. Don't you remember that the operators told the miners that, you agreed to do this when he gave you the eight hour day and the check off, and you agreed to bring West Virginia up, and you have not done it, and it is not fair to ask us to go on with our part of the agreement until you comply with yours, and you have not done it. Don't you remember that was said every year?

A. The complaint was against the competition in West Virginia, and the miners were continually asking for more money, and the Eastern operators especially were objecting to paying more as long as they had that low price of competition.

Q. But do you or do you not remember that the operators told the miners, you agreed to bring up West Virginia to our cost, when we gave you the eight hour day and the checkoff and the union conditions, and unless you comply with your part of the agreement, we cannot be expected to go on and comply with ours, and give you these higher wages and these conditions. Don't you remember that discussion straight along through every conference?

A. I think you are mistaken about that.

Q. I will show you (showing witness exhibit No, 200),
3940 in the 1898 conference, over here on page twenty-five, just read what Mr. Zerbe said there, and see if that refreshes your recollection?

(Witness examines exhibit handed him.)

3941 A. This statement here you speak of is by Mr. Robbins but not by Mr. Zerbe.

Q. He was an operator, was he not?

A. Yes, he was a Pennsylvania operator.

Q. That is Zerbe, J. Zerbe, an Ohio operator?

A. Yes, he made that statement.

Q. Did you read that statement over and see if it refreshes your memory?

A. Well, this statement brings out, or states what I stated before. The miners were asking for more money. Mr. Zerbe was objecting decidedly to paying more [moeny] until the constitution was put on a fair basis.

Q. Yes, sir, but that is not what I asked you, Mr. Lukins. I asked you whether, after you read that over, you do not remember that the operators were not only doing what you say,

but were charging the miners continuously with having agreed in the Chicago agreement to bring up the cost of non-competing states and the operators were saying "We cannot go on without our side of the agreement and give you union conditions unless you comply with your side of the agreement and bring up West Virginia and the non-union states?" Didn't that take place?

A. Not the way you put it. There was considerable complaint by the eastern operators over the competition from West Virginia and as stated here, which is the official record, and this will speak for itself, and I take it you have read it into the record, so you know what it is,—but the eastern operators were complaining in these meetings and objecting to paying a higher rate of wages and complaining of the competition from West Virginia.

Q. Don't you remember that the operators told the miners that they had agreed to do it in the Chicago Agreement? Doesn't that quotation I have shown you say that?

3942 A. Yes, I think the operators did say that, that the miners were going to organize West Virginia.

Q. That they had agreed to do it in the Chicago Agreement, didn't they say that? A. I am not sure.

Q. Didn't Mr. Zerbe say that in that statement I showed you? Look at it again if you want to.

A. Mr. Zerbe sometimes said things that were not really justified.

Q. That is not what I asked you, Mr. Lukins, but I asked you whether the operators did not continually say that, not whether they were justified or not. I dont' want to know what you think, but what these people said in this conference. Didn't Mr. Zerbe and the other operators continually say to the miners, "You agreed in the Chicago Agreement to bring up the cost of the non-union fields that are competing with us to our cost and if you do not comply with your side of the agreement you cannot expect us to comply with our side of the agreement and continue the union agreement". Wasn't that said continually by the operators?

A. No, sir, it was not.

Q. Didn't Mr. Zerbe say that in substance in that statement that I showed you? A. No.

Q. What did he say?

A. He objected to paying more money.

Q. That book shows the official record of what was said in this conference, does it not? A. Yes.

The Court: Then why are you asking him over and over again if the book shows?

Mr. Drinker: That book is not in evidence.

The Court: Then it does not make any difference what
3943 he said.

Mr. Drinker: I think it might, sir.

The Court: I think not as a part of the cross-examination of this witness.

Mr. Drinker: Can't I ask him,—

The Court (interrupting): You have asked plenty of times; there is no use of going over this again and again. This is an intelligent witness and has answered you plainly.

Q. May I ask you to look at the statement of Mr. Green of Ohio in the 1910 conference. In the first place who was Mr. Green of Ohio? A. There was a William Green.

Mr. Neal: May I ask if that document is in evidence, if it is one of the exhibits?

Mr. Drinker: No, I will use the other copy.

Q. I will ask you to look at that statement and see if that reminds you of what was said there (handing witness Exhibit 30 E, page 30)? A. What is the question now?

Q. After reading that, do you remember whether the miners did not continually say to the operators that they had complied with the provisions of the contract in the Chicago Agreement, continuously to the best of their ability in connection with the unionization of non-union fields?

A. That statement there refers exclusively to West Virginia.

Q. Well, to West Virginia.

A. He states there that they had honestly tried to organize West Virginia but had failed to do so and he also stated if the operators had helped them they could have organized the state.

Q. You are now operating union mines, are you, Mr. Lukins?

3944 A. Yes.

Q. And as President of the Southwestern Coal Operators Association you deal with the union officials continuously in connection with making contracts and other matters of that kind? A. Yes, sir.

Q. You have constant relations with the union and with the union officials?

A. We have relations with them, first, in making the contract and secondly in trying to carry out the provisions of the contract.

Mr. Drinker: Thank you, that is all.

Redirect Examination

By Mr. Covington:

Q. Mr. Lukins, with reference to the West Virginia matter, that was a matter of debate, I believe you say, and a question of each side making a speech setting forth its ideas, in which speeches they included everything, they covered a wide field.

A. Yes as I stated the miners would come in and demand an increase, and the operators would object to it and point to non-union competition they had from West Virginia. That was confined almost exclusively to Ohio and Pennsylvania where that competition hurt them.

Q. And in the same conferences Mr. Morrow and Mr. Jones and those fellows operating union mines in Ohio and non-union mines in West Virginia and they were howling about the non-union mines in West Virginia? A. Yes.

Mr. Covington: That is all.

(Witness excused.)

3945 JOHN BUMPAS, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. State your name. A. John Bumpas.

Q. Talk louder, Mr. Bumpas. Talk loud enough for the jury to hear? A. All right.

Q. How old are you? A. 57 years old.

Q. Where do you live?

A. I live in Sebastian County in Hartford Township,—no Bill Johnson Township it is now.

Q. You don't talk loud enough so the jury can hear you. What is your occupation? A. Farming.

Q. How long have you lived in the neighborhood of No. 4, what is known as No. 4 Prairie Creek?

A. I came there in 1881.

Q. You have lived there since 1881? A. Yes, sir.

Q. Are you a member of the United Mine Workers?

A. No, sir.

Q. Have you ever been a member? A. No, sir.

Q. Mr. Bumpas, during the spring and summer of 1914, were you farming at that time? A. Yes, sir.

Q. Did you experience any trouble with the guards at No. 4 placed there by the Bache-Denman interests and if so tell the jury what it was.

A. Well, there was about forty of them run across my crop,—well, between thirty and forty, I don't know the exact number, one day and I went out and told them to get out of the field and one of the threatened to shoot me.

Q. Well, they did shoot around there, anybody?

A. Yes, sir, they shot around there a good deal when
3946 they would go down to the spring after water. They hauled water from the spring down on the creek.

Q. Well, did bullets come close to you?

A. I could hear the bullets whistle in the field over where I was plowing at just outside of where they got water at the creek. My farm ran up to the creek and I got water out of the spring the same as they did. I had to go there to get my water.

Q. Now, something has been said about you carrying your family away from your home to Mrs. Keafer's, I believe. A. Yes, sir.

Q. When was that?

A. The night before the 17th of July.

Q. The day before what they call the battle?

A. Yes, sir.

Q. What time did you leave your home that night?

A. It was somewheres about 10:00 o'clock I guess, or something like that.

Q. Why did you go?

A. We went about a mile and one half or two miles.

Q. I say why did you go?

A. A man came to the gate and hollered and told us there was going to be some trouble and I had better get out.

Q. Did you take your family and leave?

A. Yes, sir, I took my team.

Q. Did you come back that night?

A. Yes, I went part of the way up there with them and turned around and came back home.

Q. Did you remain at home that night, the remainder of the night after you returned?

A. Yes, sir, I came back and stayed there the remainder of the night.

Q. Was there any obstruction between your house and No. 4 where the guards were stationed? A. No, sir.

Q. Did you hear any shooting that night at any
3947 time, and if so tell the jury when it was.
A. Just about daylight the shooting commenced at No. 4.
Q. About daylight they commenced to shoot down in No. 4 camp? A. Yes, sir.
Q. Where were you sleeping?
A. I slept out on the porch, it was hot weather.
Q. You were sleeping out on the porch?
A. Yes, sir.
Q. And the firing that you heard about daylight was down in by this mine?
Q. Yes, in there at No. 4.
Q. Now, about what time did the battle take place, that is, the main fight?
A. After the shooting ceased at 4, I was thinking of going back and getting my family and bringing them home, and the train,—they ran a passenger on the Midland Valley then, it came down about half past seven, and the shooting then commenced up at No. 3 tipple, an old tipple I don't think they were using it then. Then it commenced at No. 4 and at the school house and all around you might say, just a continual shooting.
Q. Where did you go?
A. I went to the woods.
Q. Did you remain there until the fight was over?
A. Yes.
Q. Mr. Bumpas, did you take any part in the shooting?
A. No, sir, I did not.
Q. You kind of hid out, did you? A. Yes, sir.
Q. Do you know Jake Ritchie? A. Yes, sir.
Q. Jake Ritchie testified that you on the evening of April 6th, 1914, came to him with a message, that you had been sent by a man by the name of Scofield and advised him to leave that they were going to get him. Tell the jury what occurred.
A. They did not tell me that at all. I can tell you the reason I went to him. They had some trouble there
3948 that day and as his wife was looking to be confined, I didn't know but that they would come down there and get in trouble and it might ruin his wife.
Q. You went down as his friend? A. Yes.
Q. You were not sent by anybody? A. No, sir.
Q. You went of your own accord?
A. Yes, sir, no one told me to go at all.
Q. How long had you known him?
A. Well, sir, I had known him several years. He lived a neighbor to us.

Q. Did you have anything to do with the affair up at No. 4 on the 6th of April?

A. No, sir, the pepole began to gather at the school house coming from Hartford and passed right by my door. I lived right on the road from Hartford to Midland and I went down there just through curiosity, I reckon, like anyone else would go to see what they were going to do. There was a big crowd and I couldn't understand or get up close enough to hear what they were doing or saying. Some of them made some sort of speeches there I think.

Q. You went down to the tipple, did you?

A. No, sir, after I stayed there awhile I seen the crowd rushing down the lane from the school house, the lane was full and some were kind of running, and some walking, and I didn't know what the matter was and I went down a ways, I went down to the railroad and I looked over at the office and the crowd had gathered over there and I went over there and that is as far as I went, as far as the office.

Q. When Mr. Looper was assaulted where were you and who were you talking to at the time?

A. I had sat down on the office porch and was talking to Mr. Gulley.

3949 Q. To Ransom Gulley? A. Yes, the bookkeeper.

Q. He is connected with the coal company? A. Yes.

Q. Did you see Mr. Looper at all that day, or night, where he was at?

A. No, sir, I never went any further than the office.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:

Q. How far from Mine No. 4 is your farm?

A. It runs right down to the mine.

Q. How far is your house from Mine No. 4?

A. About a quarter southwest.

Q. A quarter southwest?

A. Yes, sir, southwest I would call it.

Q. You live between No. 4 and No. 3, do you?

A. No, sir, I live right up to the Hartford and Midland road in kind of a southwest direction.

Q. You live at Prairie Creek? A. Yes, sir.

Q. You are not mining yourself? A. No, sir.

Q. Were any of your family engaged in mining at that time? A. No, sir.

Q. What kind of a meeting did you say they had at No. 6?

A. Well, I don't know what you would call it. They had a big meeting and a band, it was playing and there was a

big lot of people there, I suppose something like 2000 or 2500 people, maybe.

Q. What did you call it awhile ago, if anything?

A. I didn't call it anything; they just had a meeting I suppose.

Q. That crowd from Huntington passed right by your house?

A. No, from Hartford. The Huntington crowd came from the east.

Q. And when they passed you you went down to see what it was? A. Yes.

Q. You went down with them?

3950 A. They mostly had went down before I left the house.

Q. Did you hear any of the speeches at the school house that day?

A. No, sir, I couldn't get close enough because of the big crowd to understand them.

Q. When was it that you say you heard some shooting?

A. Well, when these men would come from the stockades, or whatever you call it up there, where Mr. Denman or Mr. Bache had them, where they employed them, they would come in a wagon with a barrel or two to get water and they would bring their guns with them and I farmed on the creek and they shot around down there and you could hear the bullets whistle.

Q. Did you see the men doing the shooting?

A. No, sir, I could hear them and I could see them when I went out to get water.

Q. But you did not see any man when he was doing the shooting? A. No.

Q. You could hear shooting in the night also?

A. Yes.

Q. And in the day time? A. Yes, sir.

Q. How far was your home from Frogtown?

A. About a mile I suppose, maybe a little over.

Q. On the day of the battle, which was July 17th, where were you? You said where you were, but I want to get it in my mind.

A. I had left the house and went back west over in kind of a hill by my house and over into the bottom over there.

Q. And when did you leave home?

A. I left home after the train went down, when the shooting commenced.

Q. You did not leave home the night before?

A. Yes, I left and carried my family part of the way up to old lady Keafer's a couple of miles west, and then I came back.

3951 Q. You came back then?
A. Yes, sir, I didn't go with them all of the way.
Q. How many in your family?
A. About six of us,—six children, me and my wife.
Q. Were you acquainted with any of the union miners?
A. Yes, sir, I was acquainted with the union miners, most all of them.
Q. You are acquainted with most all of them?
A. Yes, sir, with the most of them.
Q. They were still living around there, were they, up in July, some of them? A. Yes, sir.
Q. Did you see any of them on the Sunday before the battle? A. Well, no, sir, not as I recall.
Q. Did you see any of them on Monday before the battle?
A. I don't recall, that is three years ago.
Q. Did you see any on Tuesday or Wednesday or Thursday before the battle? A. I couldn't say as to that.
Q. What time of day did you move your family?
A. In the night.
Q. Thursday night, was it?
A. I think the battle was on Friday, the 17th of July.
Q. Did you move your family the night before?
A. Yes, sir.
Q. You didn't get any information from anybody?
A. Yes, sir, there was a man came to the gate and hollered and told us we had better get out from there, there was going to be trouble.
Q. Did you know the man or men?
A. No, sir, I never went out to see, I was fixing to get away.
Q. And you got away, did you? A. Yes.
Q. About what time in the night was that?
3952 A. About 10:00 o'clock or something like that.
Q. Was any shooting going on at that time?
A. No, sir, I heard none.
Q. And you took your family away and came back to your home? A. Yes.
Q. What time did you came back to your home?
A. I don't know just when it was, it was in about an hour or something like that, maybe a little longer.
Q. Did you go to bed then and go to sleep?
A. Yes, sir.
Q. Did you hear any guns about midnight? A. No.
Q. But you did hear some in the morning?
A. Yes, sir. It was just beginning to get daylight when the shooting commenced down at No. 4.
Q. In what direction from your house were those guns?

A. They were down at the tipple, east I reckon you would call it, from the house.
Q. East from your house? A. Yes.
Q. How many guns were firing then?
A. Oh, I don't know, quite a lot of them, I guess a hundred shots were fired or something like that.
Q. You could not see the smoke?
A. No, sir, it was not light enough.
Q. It was too early for that? A. Yes.
Q. Were you home alone at that time? A. Yes, sir.
Q. There was no one with you? A. No, sir.
Q. You did not get up and go out? A. No.
Q. Did any bullets come towards you at that time?
A. Not as I heard.
Q. You think at least a hundred shots were fired?
3953 A. Yes, something like that and then the shooting stopped.
Q. For how long did it stop?
A. It stopped until I guess about half past seven.
Q. Then where did the shooting begin at half past seven?
A. It began at No. 3, up at an old tipple up there.
Q. How many shots were fired there?
A. I couldn't tell you, they just kept firing.
Q. Firing in what direction were they?
A. From my house?
Q. No, what direction was the firing being done?
A. It was at No. 3 I told you just now.
Q. At No. 3? A. It was there about No. 3.
Q. About 7:30 o'clock in the morning?
A. Something like that.
Q. Did it appear to you that someone at No. 3 was firing out in some other direction?
A. Yes, I couldn't tell which way they were shooting.
Q. You could not tell whether they were shooting into or out of the mine? A. No, sir.
Q. Was anybody firing into the woods?
A. They got to firing, directly after that, at the school house and back towards No. 4 camp and Goo Goo Eyes, and were shooting everywhere.
Q. About how many men were engaged in that battle?
A. There must have been a lot, judging from the guns being fired and their position you couldn't tell.
Q. Give your best judgment of the number.
A. 500 or 600 or something like that.
Q. How many men, if any, did you see at Prairie Creek that morning?

A. I seen some men up at the top, I could not tell how many it is 200 or 300 yards from my house up there, and when the train came down a crowd gathered up.
Q. There was 100 or more?
A. No, I couldn't say that.
3954 Q. You testified in the contempt proceedings, didn't you? A. I don't know.
Q. You testified in Court once before?
A. Yes, sir.
Q. Did you say there was more than 100 men there at the time?
A. I don't remember what I said there might have been.
Q. What is your recollection now about the number there?
A. It didn't seem to me that many. There was a good crowd.
Q. Were they armed?
A. I could not tell, it was too far away.
Q. You did not see anyone with arms? A. No, sir.
Q. Did you have a gun?
A. Yes, I had an old shot gun.
Q. Where did you get your gun? A. I bought it.
Q. That morning?
A. No, sir, I had it a long time.
Q. Where did you get it that morning?
A. I never got it.
Q. Was it given to you?
A. I told you I bought it long before that.
Q. Where did you pick it up that morning?
A. I didn't pick it up that morning,
Q. Where did you get hold of it?
A. I never got hold of it.
Q. Did you have your gun with you? A. No, sir.
Q. I didn't understand what you meant, Mr. Bumpas, you said awhile ago you had a gun.
A. I didn't say I had the gun at all.
Q. You did not have the gun then? A. No.
Q. You did not have a gun with you at all?
A. No, sir.
Q. You did not carry a gun that day?
A. No, sir, I did not.
Q. Didn't you state in the other trial in which you were a witness that you did have a gun?
A. I don't think I stated any such thing.
Q. Where were you about noon on the 17th?
A. I was over in the hollow, I told you.
3955 Q. At what place? A. Over west of my house.
Q. What did you do that morning?

A. I went to the woods I told you.
Q. How far to the woods did you go?
A. I went about a quarter or something like that west of the house.
Q. West of your house? A. Yes, sir.
Q. Did you remain there and witness the firing up until noon? A. I could hear them shooting.
Q. Did you see any man moving around during that time?
A. No, sir, I didn't.
Q. You never saw a man?
A. No, sir, I didn't see a man.
Q. You did not see a man that you knew up to noon?
A. No, sir.
Q. Did you see any men in the afternoon?
A. Well, after the firing ceased and it was about 12:00 o'clock and I came back up on the hill.
Q. On what hill?
A. Up on the hill back towards my house.
Q. Between you and the mine?
A. Yes, sir, the hill was between my house and the mine.
Q. All right.
A. And I fooled around, I reckon, as something like an hour and a half, and then went and got my family and came back home.
Q. The question I asked you was did you see any men there? A. No, sir.
Q. Did you see any men that day at all?
A. Only as I was at the top.
Q. You did not see any men going around through the woods? A. No.
Q. You did not see any men at all going through the woods?
A. No, sir, there might have been plenty of them went.
3956 Q. You saw the Mine No. 4 burning, didn't you?
A. I saw the smoke coming up when I left and I went and got my family and came back and went down there.
Q. What time was it when you saw the smoke coming up?
A. About 1:00 or 2:00 o'clock I guess.
Q. Did you state in your former testimony here in this court that No. 4 burned about 15 minutes after the shooting stopped?
A. I don't recollect about that, but it seems to me it was an hour and a half or something like that.
Q. Didn't you state awhile [agon] that the shooting stopped about noon? A. Yes.

Q. And didn't you say in your former testimony that No. 4 burned about 15 minutes after the shooting stopped?
A. I don't recollect now.
Q. Did you say in your former testimony that there were 400 or 500 men around that mine shooting?
A. I don't remember, that has been three years ago and I don't remember what statement I made.
Q. Did you see in Mine 3, as to what was done to it in the forenoon? A. No, sir.
Q. Were you at Mine No. 3 that afternoon at all?
A. No, sir, I was not there.
Q. Did you hear any explosion during that morning?
A. Yes.
Q. Was it in the direction of No. 3? A. No.
Q. You didn't go to see what was at No. 3?
A. Do you suppose I would go over there?
Q. Did you go there to see I asked you?
A. Would I go over there when men were shooting?
Q. Did any bullets come around where you were during that forenoon? A. No.
3957 Q. You did not hear any? A. No, sir.
Q. You were a quarter of a mile away from the mine?
A. It was three-quarters of a mile or a mile.
Q. Did any bullets come in your direction as far as you heard? A. Not as far as I heard.
Q. I can't hear you. Speak up louder.
A. Not as far as I heard.
Q. Is Charley Bumpus your son?
A. No, sir, he is a brother of mine.
Q. Was he check-weighman at No. 4?
A. I think he was once, I don't know.

Mr. Covington: Stand aside.

(Witness excused.)

3958 Mrs. Sarah Hobbs, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name, please? A. Sarah Hobbs.
Q. Where do you live? A. I live at Prairie Creek.
Q. How long have you lived at Prairie Creek?
A. About six years.
Q. You were living there then in 1914? A. Yes, sir.
Q. At what place in Prairie Creek did you live?

A. I lived in a tent.
Q. In the camp?
A. Yes, sir, it was right across the road from where Mr. John Davis lived.
Q. Did you live in a house or in a tent?
A. I lived in a tent.
Q. Were you renting a tent? A. It was our home.
Q. Did you have any land rented in connection with the tent, from anyone?
A. No, sir, not at that time. Mr. Miller give us permission to put the union tent on that land. It was a union tent.
Q. Did you have any garden stuff or anything of that kind planted there?
A. We had that planted before the trouble came up.
Q. That is what I am talking about.
A. We lived in a house over at the mine before the trouble came up.
Q. Were you at home on the night of the 16th of July; if you remember? A. No, sir, I was not.
Q. The night before the shooting?
A. No, sir, I was not at home. I was home on Sunday night when the shooting started.
Q. Did you remain at home that night?
A. Well, no, not all of the time. I went down to Mr.
3959 McGinnesses in Prairie Creek.
Q. Now, the second night, were you there the second night it was shot up? A. No, sir, I was not there.
Q. Where were you? A. I was in Hartford.
Q. How long had you been over in Hartford?
A. Well, I went over several times. I didn't stay at home any more of a night.
Q. Why not? A. Well, I was afraid.
Q. Had the guards over there at Prairie Creek, Mrs. Hobbs, been shooting around there [promisciously] all along?
A. Yes, sir, there had been several shots fired around there.
Q. Were they firing over in the direction of this particular camp?
A. Yes, sir, they were firing towards my tent and they cut some of the limbs off of a tree in the yard, right in front of the tent.
Q. From what direction did the sound come from?
A. Well, it seemed like it came from No. 4; that is where I think it came from.
Q. You did not see that shooting?
A. No, sir, I didn't see it, I was too far away to see them.

Q. Did you have any trouble with any of them about your garden stuff you had planted there and cultivated?

A. Yes, we planted our potatoes and they was some people moved in there where we had moved out and they had a wire stretched around there,—well, I gnuess it was what they called the bull pen, I don't know, people could not cross it. So we were not to get our potatoes.

Q. Were they people they brought in there to work the mines as you understood?

A. I understood Mr. Denman and Mr. Bache's employees put the wire up, but they done it at their instructions
3960 of course. They had their guards inside of that wire and no one was allowed to go past it.

Q. You were not allowed to gather your garden stuff?

A. No, sir. We didn't insist on it, we didn't want to get hurt.

Q. Did you hear any talks made by any of these parties while they would be passing along the road or anywhere these employees? A. No, sir; I heard no threats made.

Mr. Covington: That is all.

Cross-Examination

By Mr. McDonough:

Q. Mrs. Hobbs, you did not see any people that did the shooting, did you?

A. No, sir, I did not see anyone that did the shooting.

Q. Was your home, your tent, near Mine No. 4?

A. Well, it was about a quarter of a mile, I guess, from No. 4.

Q. Was it nearer to No. 3 than it was to No. 4?

A. No, it was nearer to No. 4.

Q. Was it between the two mines?

A. Well, it was right in Prairie Creek, just across the public road.

Q. That was a union tent you say you had?

A. Yes, sir, it was a union tent.

Q. Did your husband or son,—did you have a husband or son who was a union miner?

A. My husband was an engineer.

Q. Who furnished the tent, the union? A. Yes, sir.

Q. That was after what they called the strike came on?

A. Yes, sir.

Q. When was the tent furnished to you?

A. Well, it was in June sometime, I don't know just the date.

Q. Did your husband live in one of the companies houses before the riots of April 6th? A. Yes, sir.

3961 Q. When did he go out of there?

A. He left on the 5th day of April.

Q. When did you go into the Union tent?

A. We went there in June sometime, I don't know just the date.

Q. Were you over to the school house on April 6th?

A. No, sir.

Q. Did I understand you to say that you left your home on the day before the battle of of July 17th? A. Yes, sir.

Q. Who went with you, Mrs. Hobbs?

A. My husband and my two daughters and my son.

Q. What time in the day did you leave your home?

A. I don't know exactly what the time was, but it was about 6:00 o'clock in the afternoon.

Q. That was the day before the battle took place?

A. Yes, sir.

Q. And you went to Hartford, did you? A. Yes, sir.

Q. How did you go over to Hartford? A. I walked.

Q. You and your family walked, did you?

A. Yes, sir, we walked.

Q. Your husband at that time was still a union miner, was he? A. Yes.

Q. Did you have any other members of your family working at union mines at that time, a son or any other relatives?

A. I had two sons working at the time but they were both married and lived in Hartford.

Q. They lived in Hartford, did they? A. Yes.

Q. What was your reason for making a visit on that day?

A. I was afraid to stay at home and I thought I would go up there and stay with them.

Q. Why were you afraid to stay at home?

3962 A. There had been so many shots fired over the tent and I thought I would go and stay until the trouble was over.

Q. You expected the trouble to come did you?

A. I didn't know whether it would come or not; but it was trouble enough when they were shooting all around there and I couldn't lay down at night and rest.

Q. Anyway, it was for fear of trouble coming that you and your family left home? A. Yes.

Q. And did you stay at Hartford until the trouble was over? A. Yes.

Q. And then you went back home? A. Yes.

Q. How long did you stay there when you went back?

A. Stay where?

Q. In your home?
A. Oh, I stayed there until September, I guess.
Q. That was on land belonging to the Bache-Denman Company? A. No, sir.
Q. The first house and the garden was on land belonging to Bache-Denman Company? A. Yes.
Q. The garden you spoke of was not on the land where your tent was. A. No, sir.
Q. It was on the other land? A. Yes.
Q. On land belonging to the Company?
A. It was land we had rented from Mr. Looper.
Q. Near the fan house, was it? A. Yes.
Q. And on company property?
A. It was company ground, yes.
Q. On company ground?
A. Yes, Mr. Looper had it rented and he rented it to my husband.
Q. Where was your husband during the day of the 17th?
A. He was at the tent.
3963 Q. You were not at the tent, were you?
A. No, sir, I was in Hartford.
Q. Then you do not know he was at the tent, do you?
A. He told me he was at the tent.
Q. That is all you know about it, what he told you?
A. Yes.
Q. He was not working during the 17th, was he?
A. Not all of the time. He came up after me in the afternoon.
Q. Late in the afternoon? A. Yes, sir.
Q. Were your sons working at some of the mines there at that time? A. Yes.
Q. And they lived in Hartford, did they? A. Yes.
Q. Which mine were they working at?
A. There at the Harbottle Mine.
Q. That was a union mine?
A. Yes, and it is situated right in Hartford.
Q. They were both working at the same mine, were they?
A. I don't know whether they were or not.
Q. Which one was working at the Harbottle Mine?
A. A. M. Hobbs.
Q. At which mine was the other one working?
A. I think he was working at the same place, too.
Q. Did you go to the house of one of them when you went over to Hartford? A. Yes, sir.
Q. Which one? A. Marion Hobbs, the oldest son.

Q. Can you state when you left the company house, the house where the garden was?
A. I left there on the 5th day of April.
Q. Did you go right into the tent then?
A. No, sir, I didn't.
Q. How long before you went into the tent?
A. Well, it was in June some time I went in the tent, I
3964 don't know just exactly the date.

Mr. McDonough: That is all.

(Witness excused.)

3965 Mrs. Beryl Ashley, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. Mrs. Beryl Ashley.
Q. Where do you live, Mrs. Ashley? A. Prairie Creek.
Q. How long have you lived there? A. About six years.
Q. Were you living there in 1914? A. Yes, sir.
Q. With your mother? A. Yes, sir.
Q. Tell the jury whether or not you heard shots fired down at No. 4 that came in the direction of your tent.
A. Well, they shot over our tent and cut the leaves and small branches off, and we could hear the bullets whistle as they went over.
Q. Did you remain at home all the time up until the 17th of July? A. No, sir.
Q. Where did you go? A. To Hartford.
Q. Why did you go to Hartford?
A. We were afraid.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:
Q. You did not see anybody doing the shooting, did you?
A. No, sir.
Q. You heard shots and saw limbs that had been cut off by the bullets? A. Yes, sir.
Q. When did you leave the place there?
A. When did we go to Hartford, do you mean?
Q. Yes A. I don't know just when it was.
3966 Q. I cannot hear you, Mrs Ashley.
A. I don't know just what date it was.
Q. The day before the battle, was it?

A. Yes, sir, we went then.
Q. Who went with you?
A. My father and mother and brother and sister.
Q. Is your father a union miner? A. Yes, sir.
Q. Was your brother a union miner too?
A. No, not the one at home he was just a little boy.
Q. The one that went with you to Hartford?
A. He was just a small boy.
Q. You had a brother who was a union miner?
A. Yes.
Q. Was he at home at that time? A. Yes, sir.
Q. Did he live by himself? Did he have a home of his own? A. Yes. sir.
Q. Was he living where you were living?
A. No, sir, he lived in Hartford.
Q. What time in the day on Thursday, the day before the battle, the battle being on the 17th,—what time did you leave your home to go to Hartford?
A. Between 4:00 o'clock and 6:00 o'clock some time.
Q. Did you walk over there? A. Yes, sir.
Q. Was your father working at home that day? Was he working somewhere in the mines, that is on the day before the battle? A. No, he was at home.
Q. Was he at home all day? A. Yes.
Q. And when he went over to Hartford what did he do the next morning?
A. Why, he just stayed there, I don't remember, it has been so long.
Q. You do not remember about that? A. No, sir.
3967 Q. Was your brother there where you were over at your home the day before the battle? I mean the older brother that had a home of his own?
A. I don't remember whether he was there or not during the day.
Q. I want to understand the place where you lived. I did not catch it when the other lawyer asked you.
A. We lived in Prairie Creek.
Q. You lived in Prairie Creek? A. Yes, sir.
Q. Who were your neighbors there?
A. Mr. John Davis.
Q. John Davis?
A. Yes, sir, he was the nearest one that lived very close to us at all, and Mr. Silo lived close to us too.
Q. Did any other persons besides your family, your mother and father and brother, go that evening, did they, before the battle, from Prairie Creek to Hartford?
A. I don't know.

Q. You did not see any others going? A. No, sir.
Q. Did you see any people traveling in that direction about the time you went over there?
A. No, sir, not that I recall.
Q. Were there some tents in Prairie Creek at that time, union tents, put up there by the union? A. Yes, sir.
Q. Were you living in one of them?
A. Yes sir, we were living in two of them.
Q. Could you tell about how many tents the union had put up there?
A. Yes, sir, I believe—I am not sure, but I believe six.
Q. Were families living in all of them?
A. Yes, sir. Well, one man had furniture in one of them but was not living there.

Q. Do you know, Mrs. Ashley, the Mrs. Hobbs who
3968 was on the stand just before you? A. Yes, sir.
Q. Did you see her going to Hartford that day?
A. She went with me. She is my mother.

Mr. McDonough: That is all.

(Witness excused.)

3969 CHARLES J. HART, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. C. J. Hart.
Q. Where do you live, Mr. Hart?
A. Bates, Scott County, Arkansas.
Q. How long have you lived there?
A. I think I went there in the fall of 1906.
Q. What is your occupation??
A. Digging coal again now.
Q. Digging coal? A. Yes, sir.
Q. Do you know a man named Willam E. White of Bates, Arkansas?
A. I don't know whether it is William E. or not, but I know a man by the name of White.
Q. You don't know what his first name is?
A. No, I don't know his first name for sure.
Q. He testified in this court the other day, Mr. Hart, that—

Mr. McDonough: If the Court please, I do not believe that is the proper way to examine the witness, to state to

this witness what the other witness testified to. He has a right to call the witness's attention to the conversation and asked what occurred, if I remember the law.

The Court: No, I think he has a right to ask him the direct question.

To which ruling of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Q. (Continuing.) He testified that after he was subpoenaed as a witness in this case,—he testified here as a witness that he had a conversation with you in which you told him that he did not have to remember what he knew.

3970 A. It is not so.

Q. Did you have any such conversation with him?

A. No, sir, no such conversation as that occurred.

Q. Did you talk to him about the matter, or did he talk to you? Did you have a conversation about it?

A. He talked to me and we had some talk, yes.

Q. Under what circumstances did you meet him, where and when?

A. I was coming home from work. I think the reason I came out early was the engine broke down and we laid in there awhile and could not get any satisfaction and we came out early about dinner time or a little afterwards, and in coming home I met him on the road and that was on the main road coming in, the only road that comes into the village on the west side.

Q. All right, go ahead.

A. He was west about 300 yards from my house or where I lived on that road. I just made the remark to him "You are not working today White?" And he said "No." He said, "I have to go back over to Fort Smith to that trial." And I said, "Is that so?" And he said "Yes," and he repeated then a conversation that he had with me before this when he came over here before and said "I don't see what I can do for them over there for I don't know anything about the thing myself. All I know is what them folks that came around my place said. I was over at Montreal when that happened, and a lot of them damn fools came around there and sat around blowing their heads off about what they did and everything else, and I don't remember half they said." And I said, "A man don't have to swear to anything he don't remember anyhow." That is the extent of that conversation. After that there was nothing further much said and we walked along and I turned in to

3971 my place and he went on.

Q. Did you try to keep him from coming up here to testify?

A. Not in the least, I did not have any idea of the thing.
Q. Did you endeavor to persuade him or to induce him not to tell what he knew?
A. Absolutely no, the thought never entered my head.

Mr. McDonough: I object to that.

The Court: Objection overruled.

To which ruling of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Q. Do you live in Bache in Scott County? A. In Bates.
Q. How far is it from here to Bates?
A. It is in a direct line, over the mountain, about three miles, maybe, it is two and one-half or three miles south of the Sebastian County line.
Q. I don't know any more than I did before. How far is it?
A. To go around by the railroad,—let's see, it is 13—it is about 13 miles out to Spiro, and 13 miles from Spiro to Heavener, and 13 miles after you leave Heavener,—I don't know exactly what the distance is.
Q. That would make it about 40 miles?
A. It would be more than that.

Mr. Covington: That is all.

Cross-Examination

By Mr. McDonough:
Q. You are a union miner?
A. Yes, at the present time.

Witness excused.

3972 PETER GRAHAM, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct-Examination

By Mr. Covington:
Q. State your name. A. Peter Graham.
Q. Do you have a son Peter Graham?
A. I have a son Peter Graham, too, yes, sir.
Q. Where do you live, Mr. Graham?
A. At the present time I live at Excelsior.
Q. How long have you lived down in that settlement?
A. At Excelsior?
Q. In that particular section of the country?
A. You mean Excelsior?
Q. I asked you where you live?

A. I have been living down there, we have been down there, we moved down there in August, but I have been down there since the 15th of May.

Q. What is your occupation?

A. Well, I am trying to operate a little pigeon hole down there.

Q. Operate a mine? A. Yes, sir.

Q. Did you live in Prairie Creek in 1914? A. Yes, sir.

Q. What part of Prairie Creek did you live?

A. I lived at Frogtown.

Q. Frogtown, I mean. How long have you been engaged in that business?

A. I have been working in the mines since I was eight years old.

Q. Since you were eight years old? A. About 52 years.

Q. Mr. Graham, did you have occasion to meet up with any of the guards at the Bache-Denman mine No. 4, during the spring and summer of 1914, that is, to see them?

3973 A. Yes, sir, I have saw them, saw them passing by on the road, and I have been down there, I went one time down to the depot, Prairie Creek depot one evening, drove down there, and I saw some men there with guns, and some more get off the train, and they were getting provisions off the train and putting it in a wagon and carrying it off.

Q. Did you ever see any of them over in Frogtown?

A. No, I never saw any of them really over in Frogtown, except up at Mammoth Vein.

Q. Up at Memmoth Vein? A. Yes, sir.

Q. Do you know anything about them shooting promiscuously around over the country there?

A. I heard it, but I didn't hear it or see it. I happened to be in Hartford the day that it was reported there was some shooting down there around the tipple.

Q. I am not asking what was reported; I am asking you what you know about it?

A. I don't know anything about it, except just what I heard.

Q. Did you have any shooting in Frogtown in July, 1914?

A. Yes, sir, on the Sunday before they had the battle, as we call it, on the 17th; me and my wife, we went to Hartford that morning, Sunday morning, and stayed until late in the afternoon. We went to church and Sunday school, and then went home with an acquaintance and stayed until late in the evening, and we came home and done up our work and went to bed; and the first thing we knowed, we were aroused by some shooting; I heard three or four shots and I jumped up out of bed. I didn't know what it was, we lived up on top of

that ridge, on that map, I see it there, and this shooting was down in Frogtown, down below us.

3974 Q. You lived up on the hill?

A. Yes, sir; and we didn't know what it was, and we got up and went out on the porch, and we could see the flashes and hear the reports, and hear loud talking, but we couldn't tell who or what it was, so we just stayed there, and went in the house and put on some more clothes, and we just stayed around there; we didn't sit on the porch very much, because that was too open a place, and we didn't know what was going to happen, and the shooting kept on, and we got in behind some of those trees in front of the house, and stood there and watched the flame and the fire fly from the shots, but we didn't know who it was doing the shooting.

Q. It was dark? A. Dark, yes, sir.

Q. You couldn't tell who was doing the shooting?

A. That is just about, you take it from the top of the hill down to where we saw the shooting, it was pretty near a quarter of a mile.

Q. Did you remain at home the remainder of the night?

A. No, we stayed around there until everything got quiet, and then we went down over the hill, and found out from the neighbors down below there what it was, or what they said it was.

Q. Somebody had been out there shooting up the town?

A. Yes, sir.

Q. Now, did you see any of these non-union guards on July the 4th?

A. Yes, sir; me and my wife; we generally, we used to take a drive long before there was any open shop there, or anybody had any thought of anything of the kind, we used to drive down to a spring on the creek, very frequently in the evening, and our horse didn't have nothing to do except when we did drive it out a little like that; and we would go down that way, and that was about all it had to do, and we drove down

3975 there, and as we drove past No. 4, the crossing, the railroad there close to No. 4, there was a bunch of Bache employes setting on a pile of ties, and they tipped their hats to us, and we never paid any attention to them, and I suppose it kind of ruffled them up a little bit, because we went on down to the spring, and it was beginning to get a little late, and we took a drink of water, we took our glass down there and supped the water a little, and then came on back, and as we came on back the whole lane was lined up out there.

Q. On which side of the road?

A. It was just across the road, the whole thing, I suppose there were 20 or 30 men there probably, and I said to my wife, "You keep quiet, there is something going to happen here."

Q. You needn't tell what you said to your wife?
A. I thought there was something going to happen, and I made up my mind if anything happened here I was going through that crowd, that it was a holdup game, it looked like it; and I drove on, I didn't trot, just in a walk, and they lined up on both sides of the road, and the wheels of the buggy rubbed their clothes when we went on through.
Q. Just room enough to get through?
A. Yes, sir; and they taunted and made some remarks, but I don't know what they were.
Q. They made some side remarks? A. Yes, sir.
Q. Did any of them have guns on that evening?
A. There were some men there with guns, I suppose they were guards. I saw, as I went down past, some men by the side of the fence, in among the trees, men with guns.
Q. You were acquainted with most of the men in that community? A. Yes, sir.
3976 Q. Been there for a long time?
A. Oh, yes, I knew most of the people there.
Q. It was none of those people that lived there?
A. No, sir.
Q. Mr. Graham, you have lived in that settlement a long time, and most of the citizenship in that valley, they are people that have been raised in that valley, and raised their families there?
A. Yes, sir, they have been raising families there.

Cross-Examination

By Mr. Hull:
Q. Mr. Graham, I understood your house was up here on this ridge? A. Yes, sir.
Q. You lived up here? A. Yes, sir.
Q. Frogtown is over in here?
A. Frogtown is down in the hollow there.
Q. Down in this hollow here? A. Yes, sir.
Q. Now, your house is up here on the middle of this ridge?
A. You know where that lane goes up from the main road?
Q. I am sorry I don't, if this is a true representation of that ridge, is that the middle of it?
A. If you will give me permission to come over there.
Q. Will you come down here, please?
A. Now, this represents the house.
Q. And where was your house?
A. My house was over this way.
Q. And that is the lane, I suppose?
A. Yes, sir, and runs right up to it, and I was just on this side over there.

Q. Now, point out to the court and jury where the flashes of guns were?

A. Let's see, this is the lane over here, is it?

3977 Q. This is the main road. This is one of the roads.

A. That runs to Hartford?

Q. Yes, that comes down here.

A. And this is the road up through Frogtown, is it?

Q. I don't know.

A. Anyway, this is the lane that runs down here?

Q. Yes.

A. This is the lane that runs to the school house now, and this is the road to Hartford. They were shooting down in about here (indicating).

Q. Now, you are indicating this forked road, the one with the four corners? A. The four corners.

Q. Where the lane makes the four corners with the road to Hartford?

A. Yes, sir, and this is where you come down through here.

Q. About how many flashes did you see down there?

A. Oh, there were a whole lot of them.

Q. You saw a whole lot of them,—how many?

A. Possibly 150 or 200 shots.

Q. 150 or 200 shots, were they all together?

A. Oh, no; they were at intervals; sometimes an interval of two or three minutes before another.

Q. How many flashes did you ever see at once?

A. Oh, I couldn't count them, there would be a whole blaze of fire there sometimes.

Q. You would assume there were 30 or 40 guns fired at the same time?

A. Maybe 15 or 20 shots fired at the same time, from the amount of flashes.

Q. You could see the different, separate flashes?

A. Yes. sir.

3978 Q. About what time was that?

A. That was on Sunday night.

Q. About what time I mean?

A. Well, I couldnt tell you; that was, I presume it was somewhere between nine and ten o'clock; of course I never looked at the time; we jumped up out of bed, and I didnt look at the time.

Q. Had you just gone to bed? A. Oh, we were asleep.

Q. You were asleep? A. Yes, sir.

Q. Did you go into Hartford that night? A. No, sir.

Q. You did not? A. No.

Q. Were you living there with your family?

A. Yes, sir.

Q. Was your family there with you that night?
A. Yes, sir.
Q. What did your family consist of?
A. My wife and myself.
Q. And you didnt go and join the rest of them, and go on into Hartford? A. No, not that night.
Q. Did you go at any time?
A. I didnt go into Hartford that week, I was sick.
Q. You didnt move your family in to Hartford before the battle?
A. My wife stayed in Hartford one night.
Q. What night was that?
A. I cant tell you that, either Tuesday or Wednesday night.
Q. Tuesday or Wednesday night before the battle?
A. Yes, sir.
Q. Do you know why she went in there?
A. Yes, sir, I can tell you why. I had two daughters that had families there, and a son that had a family there,—no, one daughter had her family there, and a son, and my son didnt have any way of conveyance, and my wife took him in our buggy, and took the children into Hartford, and
3979 one night there was a report come there, they called them the scabs, that they were coming over in behind the creek, and my wife run down there, and she took Andrew's children all into Hartford; and she was too late, it was too late for her to come back, so she stayed.
Q. Did she stay in there until after the battle was over?
A. No, sir.
Q. Was she at home on the night of the battle?
A. We were in Hartford on the day of the battle, but we were at home the night after the battle was over.
Q. The night that the battle began, at night, were you in Hartford that night?
A. When the battle begun that night?
Q. If the battle begun early Friday morning, were you at home Thursday night? A. Yes, sir.
Q. What time did you leave home?
A. We left home after six o'clock.
Q. Did you usually get up and go to Hartford like that?
A. I had been sick all week, and had not been at work for seven or eight days, I had been sick.
Q. And why did you go to Hartford that morning?
A. We went to Hartford to spend the day with friends, we had them in Hartford, and prearranged, and my wife made the arrangements when she was over with John Griffith.

Q. You got up about six o'clock, and had not heard any shooting before you left?

A. No, sir, we had not heard any shooting that morning.

Q. You didnt hear any shots about four o'clock that morning?

A. I think possibly we heard a shot one time about twelve o'clock, the night before.

Q. About twelve o'clock the night before?

A. Yes, sir.

Q. Where was that shooting?

3980 A. I cant tell you exactly where it was at, but I can tell you where it sounded like. It sounded like up at the fork of the road, by the store.

Q. You didnt go to Hartford that morning because of any trouble that you were afraid was coming off?

A. No, sir.

Q. You had not [not] heard anything about any trouble coming? A. No, sir.

Q. Now, can you point out where that road was where there were 20 or 30 men holding you up?

A. They didnt hold me up.

Q. That you thought were going to hold you up?

A. Let me see now. The Midland Valley Railroad,—

Q. That is over here. A. And No. 4?

Q. No. 4 is here, and here is Prairie Creek.

A. This is the road.

Q. Testify so the reporter can get it.

A. Here is the school house.

Q. And this is where you were held up, where the men were?

A. When we went down over there, that road in here, we went down to the creek, and when we came back they were lined up right in here; this road there where you cross the track.

Q. There were 20 or 30 of those men there?

A. There must have been that many.

Q. You say all that had happened on the way down, you tipped your hat to them? A. No, sir.

Q. They tipped their hats to you, and you didnt acknowledge the salute?

A. That is all we done, as far as I know.

Q. And that is the only reason, as far as you know, for them blocking the road?

A. That is as far as I know.

Witness Excused.

(A recess was here taken of ten minutes.)

3981 MRS. PETER GRAHAM, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. You are the wife of Mr. Graham that just testified?

A. I am.

Q. You live at Prairie Creek A. I did live there.

Q. You lived there in 1914? A. In 1914.

Q. Do you remember some shooting there one night, shooting into Frogtown, by anyone, sometime in July?

A. Yes, sir, I do.

Q. Do you remember what time it was in July?

A. Sunday night, before the 17th.

Q. The Sunday before the battle? A. Yes, sir.

Q. And about what time of night was it?

A. I didnt look at the clock, but we had gone to bed and were asleep, and it wakened us up, it must have been ten o'clock or something like that, perhaps a little later.

Q. Did you leave home at any time after that?

A. I went and taken the children into Hartford the night that my husband stayed, and came back the next morning? Yes, I taken them in one evening after that, but I came back home and stayed at home.

Q. Mrs. Graham, did you have any trouble on the road from Huntington with these guards, or employes of Bache's, on the highway, and if so, tell the jury what it was?

Mr. McDonough: We object to it, if your Honor please, because there is no evidence as to who it was. We are not objecting to the fact, but defendants' counsel is plac-

3982 ing in the mouth of the witness something that has not been testified to.

The Court: I think it is improper; let her state what was said and done.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

A. I was coming home from Huntington, and these men that were working there, as my husband stated, we lived just above the mine about 200 yards, and had to pass it to come home; and I was driving along the road, and there was a lady in the buggy with me, and they came out from there just before I turned in, where I turned in, well, it was down maybe as far as from here to the back of the building there.

Q. Out from where?

A. From the Mammoth Vein mine; they were up there at this time working; and they drove out with a wagon load of them, and there were two men in the front seat with guns, and two in the back, and they drove out, like I was on the road here and was going to turn out, and they drove in like this, and run me and my buggy, the wheels over into the ditch, and as they passed they hollered and hurrahed at me, and I didnt say anything, I didnt want any trouble with them.

Cross-Examination

By Mr. Hull:

Q. Where was this, near Mammoth Vein No. 1?

A. Yes, sir, on the public road, over the hill here.

Q. On the other occasion that your husband told us about, about your being down here, and about some men forming themselves across the road, will you tell us about that?

A. We went out for a drive, as he stated, and as we went on down across the track, they were sitting on a pile of ties.

3983 Q. How many were there there? A. At that time? Q. Yes. A. As we went down?

Q. Yes.

A. There were six or seven when we went down.

Q. Who were they, do you know?

A. They were these men on the inside.

Q. How do you know that?

A. Because I have saw them going in and out there when I was down there, and saw them going from the train, and saw them going from Mammoth Vein, as I would be on the road.

Q. Mammoth Vein No. 1?

A. Yes, sir; our house is burned down now, there is no house there, and that is the reason it doesnt show it on the map there.

Q. You see Mammoth Vein No. 1?

A. Yes, sir; may I step back there?

Q. Yes, surely. And here is No. 4 over there.

A. And we went down the public road, and cross the river, and here is where our house was, up here, and here is the mine, and they came out along here.

Q. And you went over here, this road here?

A. No, not that road.

Q. You came along this road here?

A. Yes, sir, we came along the public road and crossed the Midland Valley.

Q. Now, you were down near No. 4 a great deal?
A. No, not around No. 4; that was the only time I was ever around No. 4. I used to go down to Mrs. McGinnis', right down at the depot.
Q. At Prairie Creek depot? A. Yes, sir.
Q. That is here (indicating)? A. Yes, sir.
Q. You never were down here except this once?
A. Except the one time when I came from Hunting-
3984 ton,—I didnt come that way, I came around by No. 6.
Q. Now, when you used to come down to Mrs. McGinnis', what did you used to see down there?
A. I saw them getting off of the train, and going over under guard to No. 4.
Q. Saw whom getting off?
A. The non-union men, I supposed; they went in there, I saw them again up at Mammoth Vein.
Q. Up at Mammoth Vein; when was that?
A. It was sometime in July; I dont know just what time in July it was.
Q. You saw them up there operating Mammoth Vein No. 1?
A. I cant say whether they were or not; they were up there.
Q. How many were up at No. 1?
A. Quite a few of them.
Q. The same ones that you saw down at the crossing that day? A. Some of them were.
Q. Some of them were; and what were they doing at No. 1?
A. I dont work in the mines, and it would be hard for me to tell you, they were just working about on the top.
Q. Just working about on the top of Mammoth Vein No. 1? A. Yes, sir.
Q. And that is the only other way you got to know those men?
A. Yes, sir, they would pass on the public road.
Q. That was in July?
A. Yes, sir, sometime in July.
Q. How many men were working around No. 1?
A. I cant tell you that.
Q. Approximate it?
A. Quite a few; 20 or 30, maybe more; I dont know; I couldnt be positive about how many there were, because I never stopped to count them.

Redirect Examination

By Mr. Covington:

Q. Mrs. Graham, how long have you lived in that
3985 community down there?

A. I have been there nine years; I have been there seven years this time, and I lived there one year before that; and then I lived there five years; I have been there fifteen years most all the time.

Q. You knew a great many of the people in that community?

A. I knew the people in the Hartford Valley.

Q. It was not any of those that stopped you on the road and put you out in the ditch, was it? A No, sir.

Recross Examination

By Mr. Hull:

Q. It was none of those people that you knew that were working at No. 1, in July?

A. They came out from Mammoth Vein.

Q. They came out from Mammoth Vein No. 1?

A. Yes, sir.

Q. As I say, it was not any of the people that you knew, that you saw working at Mammoth Vein No. 1, in July?

A. I dont understand the question.

Q. I simply asked you if you knew the people around there? A. Yes, sir.

Q. And if those people down in No. 4, you said they were not the people that you knew were residents of the place?

A. No, sir, they were not the residents of the place.

Q. And I am asking you the same question about the men at No. 1?

A. No, sir, they were not the ones that I knew.

Q. I neglected to ask you, where you were on July 17th, the day of the battle? A. I was at Hartford.

Q. About what time did you go?

A. About six o'clock in the morning.

Q. Do you remember the occasion of your going?

A. My husband was sick, and I went into Hartford with him.

Q. Went in to the doctors?

3986 A. Not to the doctor's particularly.

Q. Where did you go? A. To John Griffith's.

Q. You didn't hear any shooting before you left?

A. No, sir.

Q. You didn't hear any shooting at daybreak that day?

A. No, sir.

Q. On the way to Hartford did you meet any armed men, men with guns? A. No, sir; I did not.

Q. Any men coming out from Hartford to Prairie Creek?
A. Not any more than I always do.
Q. You always meet men coming out with guns?
A. I didn't see any with guns I told you.
Q. You didn't see any with guns that morning?
A. I did not.
Q. How many did you meet that didn't have guns?
A. Two or three, except; just as we always meet men going and coming on the public highway, more or less.

Witness excused.

3987 MICHAEL HUNTER, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. Michael Hunter.
Q. How old are you? A. 60 years old.
Q. Where do you live, Mr. Hunter? A. Frogtown.
Q. How long have you lived in Frogtown?
A. 13 years.
Q. How long? A. 13 years.
Q. 14 years? A. 13 years.
Q. You were there in the summer of 1914, the spring and summer? A. Yes, sir.
Q. I believe you are a coal miner, are you?
A. I should be, I have been diggng coal 49 years.
Q. 49 years? A. Yes, sir.
Q. Did you see any of the guards and employes of the Bache-Denman Coal interests, and from what is called No. 4, at any time during these months that we have mentioned, April, May, June and July?
A. They used to pass the door there pretty near every day.
Q. Pretty near every day? A. Yes, sir.
Q. Did you ever see them up in Frogtown?
A. Yes, sir, I used to go from Frogtown when they were going to Hartford.
Q. Were they armed? A. I guess they was.
Q. Did you see any guns in the crowd?
A. No, sir, not when they were passing us, no, sir.
Q. Did they visit any particular place in Frogtown?
A. Yes, sir.
Q. What place was that?

A. The visited the house next door to me, where
3988 they got their booze.
Q. They visited the house next door to you where they got their booze? A. Yes, sir.
Q. They visited the house next door to you where they got their booze? A. Yes, sir.
Q. Do you recall any special occasion when they became angry, and talked loud and boisterous there because they could not get any booze?
A. Yes, sir, I do.
Q. How long before the battle on the 17th of July was this? A. It was on the 12th.
Q. Had you made any protest against the sale of that stuff there to those people?
A. Yes, sir, I went and told them.
Q. What did they say, Mr. Hunter?
A. They couldn't talk good English,—

Mr. McDonough: We object to that as hearsay, the question, I can't tell whether it is proper or not.

The Court: Objection sustained; it is improper.

Mr. Covington: I am asking what they said.

The Court: Who said?

Mr. Covington: The guards.

The Court: He is talking about the people up in town.

Mr. Covington: I didn't ask him that, I am talking about the guards.

A. Oh, the guards?
Q. Yes, what did they say at the time that you referred to?
A. Those people that come there and got the booze, they came in an automobile there, and I went and told the man that was selling the booze not to give them any more.

The Court: Never mind, strike out what he told them.

Q. Never mind what you told them, what did the guards say?
A. I don't think I ever spoke to any guards, I was not talking to any guards.
3989 Q. Did you hear them say anything?
A. I can't hear you.
Q. Did you hear them say anything?
A. Those that were there getting the booze?
Q. Yes, the day that they failed to get the booze?

A. Yes, sir.
Q. What did they say?
A. They said they would come back that night and if they didn't get the booze they would shoot the place up.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:
Q. You didn't know who that was?
A. No, sir, the men that worked around there.
Q. They were the men that were in the automobile?
A. Yes, sir.
Q. Were you mining coal at that time?
A. No, sir.
Q. I didn't understand you? A. No, sir.
Q. Had you mined coal at No. 4 Praire Creek?
A. Yes, sir.
Q. Were you at the school house on April 6th?
A. I was not, I was half way down there.
Q. You were on the way there?
A. On the way there, yes, sir.
Q. You were on the way when the meeting blew up, were you?
A. I saw them coming back and I went home.
Q. What time in the day did you get to the meeting?
A. I couldn't tell you exactly what time it was.
Q. You didn't go to the meeting at all, did you?
A. No, I was not in the meeting; I was up there.
Q. You were a union miner at the time?
A. Yes sir.
3990 Q. And still a union miner? A. Yes, sir.
Q. You attended the union meetings at Frogtown, did you? A. Yes, sir; I did.
Q. When was that meeting? A. It was on Monday night.
Q. On Monday night? A. No, on Tuesday night.
Q. Following the shooting up of Frogtown? A. No, sir.
Q. On Monday night before the battle of July 17th?
A. Yes, sir, we had a meeting there every Monday night, of the local.
Q. Of Union miners? A. Yes, sir.
Q. How many attended that meeting?
A. All the members, I guess.
Q. How many? A. All that were members, I guess.
Q. What? A. All that was members in the local.
Q. Oh, I see. How many were they?
A. Oh, I don't know, sometimes there were some went and sometimes they didn't go.

Q. Just members of that local? A. Yes, sir.
Q. Did you not have miners from other places?
A. Sometimes, and sometimes not.
Q. In that meeting before July 17th?
A. I don't remember.
Q. Where was your meeting? A. In the hall.
Q. In the town of Frogtown? A. Yes, sir, Frogtown.
Q. What time in the night did you have that meeting?
A. Oh, seven o'clock.
Q. How long did it hold?
A. Sometimes there were no members there and they didn't meet at all.
Q. Did you,—where were you living on April 6th, Mr. Hunter? A. In Frogtown.
Q. Did you see any people going past your house that day?
3991 A. Yes, sir, I guess a bunch on the main road.
Q. Did you follow them down toward the school house? A. That day?
Q. Yes.
A. Yes, sir, I followed them around; I took a walk around.
Q. Where were you on July 17th, the day of the battle?
A. I was in bed sick.
Q. Had you been anywhere on Thursday, the day before the battle? A. No, sir, I was sick.
Q. Sick that day, too? A. Yes, sir.
Q. Did you get up on the day of the battle?
A. I did not.
Q. How long did you stay in bed?
A. I was not in bed all the time, I was up and down.
Q. You didn't go out to the battle at all?
A. No, sir, I did not; and if you were sick, you would not go, either, no, sir.
Q. Did you go down there the next day? A. No, sir.
Q. Did you have a meeting in Frogtown on the night before the battle? A. No, sir.
Q. Were you over at Hartford the day before the battle?
A. No, sir, I was not.
Q. Were you over at Hartford at any time that week?
A. Ain't I telling you I was sick in bed, and under the doctor's care.
Q. I didn't understand you to say you were in bed?
A. I was sick.
Q. Were you in bed all during that week?
A. Sometimes, and sometimes I was up.

Witness excused.

3992 PETER NICKOLLE, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. What is your name? A. Peter Nickolle.
Q. Where do you live? A. Frogtown.
Q. Frogtown, this county? A. Yes, sir.
Q. How long have you lived there? A. 14 years.
Q. Were you at home in July, when Frogtown was said to have been shot up? A. I was in Hartford.
Q. You were what?
A. I was in Hartford, me and my family.
Q. Were you at home when the shooting occurred?
A. We were at home at night; what day do you mean?
Q. On Sunday night?
A. Yes, sir, on Sunday night we were at home.
Q. What did you do?
A. We walked the floor until they quit shooting that night; and me and my wife and my children, we never moved that Sunday.
Q. Did you leave home on any night, and if so, why?
A. Yes, sir, we left the next night.
Q. The next night? A. Yes, sir.
Q. Where did you go?
A. We go to Hartford to stay at night, at Hartford.
Q. And you stayed all night at Hartford? A. Yes, sir.
Q. Did you walk?
A. Yes, sir, and I had a hard time the first night, that night with the crippled boy, I had him in a chair and was behind him pushing.
Q. You pushed your crippled boy into Hartford?
A. Yes, sir.
Q. In a wheel chair?

3993 A. Yes, sir, and part of the time they pulled with ropes, and I sure had a hard time that first night.

Q. You left your home you say on account of the shooting that occurred there, and you took your boy and went into Hartford,—I say it was on account of the shooting that you left home? A. Yes, sir.

Cross-Examination

By Mr. McDonough:

Q. What day did you leave home?
A. On Monday night.
Q. Did you stay at home on Sunday night?

A. Yes, sir, we stayed home on Sunday night, and we all walked the floor.

Q. Were you a neighbor of Mr. Hunter?

A. I am a neighbor of his.

Q. Do you remember the day of the week that the battle took place?

A. Let me see, it was on Friday, I believe, I was not home, I was in town.

Q. July 17th? A. Yes, sir, I was in town.

Q. You were in town that day? A. Yes, sir.

Q. You had gone in town the night before?

A. Yes, sir, and we stayed all night and left the next day.

Q. What time did you leave your home, what time of day on Thursday?

A. On Thursday,—well, we left every night after Sunday night, and this Monday, Tuesday, Wednesday and Thursday; we go five nights straight.

Q. You left your home at what time Thursday?

A. Thursday?

Q. Yes. A. On Thursday before dark.

Q. A little before night? A. Yes, sir.

Q. And went into Hartford? A. Yes, sir.

Q. Were you in Hartford during that night?

A. Yes, sir.

3994 Q. And stayed at Hartford the next day?

A. We came back in the morning and leave the evening of the next day.

Q. How is that?

A. We came back after dinner, and leave the next day.

Q. Now, you went into Hartford on Monday night?

A. Yes, sir.

Q. And went back from Frogtown on Tuesday morning?

A. Yes, sir, on Tuesday morning.

Q. And you went back to Hartford on Tuesday night?

A. On Tuesday night, yes.

Q. And went back to Frogtown on Wednesday morning?

A. Yes, sir, on Wednesday morning.

Q. And the same thing Wednesday night and Thursday morning? A. Yes.

Q. And when you went back to Hartford on Thursday night, you didn't come back to Frogtown until the afternoon on Friday? A. Until the afternoon sometime on Friday.

(Witness excused.)

Mr. Covington: If your Honor please, I think we can save time by adjourning now; I think we can close our case tomorrow evening if we have a little time now.

The Court: Counsel's request is entirely reasonable, considering the progress that you have made. I realize there are a large number of witnesses and we have been proceeding expeditiously, and I will grant your request.

We will now stand adjourned until tomorrow morning at 9:30 o'clock.

3995 Fort Smith, Arkansas.

Thursday, November 15, 1917, 9:30, a. m.

Pursuant to adjournment as last aforesaid came all the parties as before on Thursday, November 15th, 1917, and the trial of the case proceeded as follows:

Mr. McDonough: If the court please, we have not been furnished with the two missing minutes of the two locals, one at Camp Beulah, No. 2110, and the other number I have forgotten. I am making the inquiry now because we would like to have the books produced or an affidavit made.

Mr. Covington: If the court please, on investigation I found those affidavits were made several days ago and they got mislaid on the desk with a lot of other papers. We will furnish them.

The Court: You find it impossible to furnish them, do you?

Mr. Covington: Yes, the hall burned down about a year and one half ago.

The Court: Very well, proceed to make the record.

Mr. McDonough: We ask the privilege of recalling Pete Graham.

The Court: Perhaps you had better do that after the defense closes?

Mr. McDonough: This witness was on the stand yesterday.

The Court: Very well. Is Pete Graham in the room?

3996 PETER GRAHAM, recalled for further examination, testified further as follows:

Recross Examination

By Mr. Hull:

Q. You were on the stand yesterday afternoon, Mr. Graham? A. Yes, sir.

Q. Do you remember, Mr. Graham, of being at either Prairie Creek station or Midland station on the Wednesday before the battle, at any time during either of those days, on July 15th?

A. No, sir, I don't know exactly the dates I have been down to the station there.

Q. Were you there a good deal?

A. I was down there two or three times.

Q. Did you know John Shaleen? A. No.

Q. You do not know John Shaleen at all? A. No.

Q. Do you remember of being at either one of those stations on Wednesday, July 15th, two days before the battle, and being with some other union men, Pete Manick being one of them, and some of the employes of the Bache-Denman Company being there, and saying either to these union men that were with you or to these Bache-Denman employes that there was going to be trouble, or words to this effect, there is going to be trouble here, it may cause some bloodshed, two or three union men may be killed, but we are not going to let scabs operate in this country, or, we are not going to let No. 4 operate open shop?

A. No, sir, I don't remember anything of that kind. You mean did I say that?

Q. Yes; do you remember saying any such thing?

A. No, sir, I never used any such language, either at the depot or anywhere else.

3997 Q. If I have not stated the words, you never said anything that purported to mean about that? A. No, sir.

The Court: Or that in substance.

Q. Or that in substance?

A. No. The only time I would be down at the depot, me and my wife would drive down there and one time we walked; and we just stood there talking. We went down there to see and not to talk, and we just stood there and seen what was going on.

Witness excused.

3998 A. KEEFER, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Warrum:

Q. State your name to the court and jury?

A. You will have to talk loud to me, I am hard of hearing.

Q. State your name to the court and jury? A. Sir?

Q. What is your name? A. A. Keefer; Almon Keefer.

Q. Where do you live?

A. In Sebastian County, Mississippi Township.

Q. How long have you lived there?

A. If I mistake not, I think I have been living on the place I am living on thirty years; I were born and raised in Hartford Valley.

Q. Are you acquainted with Jesse Goatcher? A. Yes, sir.

Q. How long have you known him?

A. I have known him ever since he was quite a small boy, I don't know exactly how many years.

Q. Where does he live? A. He lives in Oklahoma.

Q. How far from where you live?

A. I suppose maybe three and one-half miles, maybe a little further or not so far.

Q. How long has he lived in that neighborhood?

A. Goatcher?

Q. Yes. A. He has lived there all his life.

Q. And you have known him during all that time?

A. Yes, something near all that time.

Q. Are you acquainted with his reputation in that neighborhood for truth and veracity?

A. Well, I am acquainted with his reputation in regard to truthfulness, as far as Goatcher swearing to a lie is concerned, I don't know anything about that.

3999 Q. What is that reputation in that neighborhood, is it good or bad?

A. The way he is represented to me,—

Mr. McDonough: If the court please, I do not think counsel brings himself within the rule on that subject.

The Court: In what respect?

Mr. McDonough: The statute prescribes the questions that shall be asked. The witness must first be qualified by being asked if he knows what that reputation is.

The Court: Counsel has put the proper question.

Mr. McDonough: I do not understand he answered in the affirmative.

The Court: Read the question, Mr Stenographer.

(Question read by stenographer Perkins: "Are you acquainted with his reputation in that neighborhood for truth and veracity?"

A. Well, I am acquainted with his reputation in regard to truthfulness. As far as Goatcher swearing to a lie, I don't know about that.")

Mr. Warrum: I will withdraw the last part of the answer.

The Court: No, the whole answer may stand. The objection is overruled.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted.

Q. Is that reputation good or bad?
A. About his truthfulness?
Q. Yes.
A. It seems to me to be bad from the way people speak about him.

Mr. Warrum: That is all. Take the witness.

Cross-Examination

By Mr. McDonough:

Q. You live at what place?

A. I live in Mississippi Township, Sebastian Coun-
4000 ty.

Q. How far from Hartford do you live?
A. Five miles, said to be, probably further.
Q. You live north of Hartford, do you?
A. Kind of northwest, near the Oklahoma line.
Q. In what neighborhool did Goatcher live?
A. He lived down in what was called, you might say, at this time the Field neighborhood or Hilltown.
Q. That is in Oklahoma? A. Yes.
Q. Has he lived at the same place for a long time?
A. Goatcher?
Q. Yes.
A. Around in that neighborhood and around in and about Cameron, and in that part of the country.
Q. What business did you say you were in?
A. I am farming.
Q. And have been engaged in the coal business, too, have you?
A. No, sir, not at all. I never was in a coal mine in my life.
Q. Or any of your people engaged in coal mining?
A. Sir?

Q. Are any of your people, any of your family, engaged in coal mining?
A. No, sir. I raised one boy and he is on the farm with me yet.
Q. You live near the mines?
A. I live about five or six miles from Hartford.
Q. You trade at Hartford, do you? A. Yes.
Q. You do your business at Hartford? A. Yes, sir.
Q. That is a union mining community, is it?
A. Well, I suppose so.
Q. You know there are a good many mines there?
A. Yes.
4001 Q. And a good many union men there?
A. Said to be.

Mr. McDonough: That is all.

Witness Excused.

4002 MELVIN KEEFER, called as a witness in behalf of the the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Warrum:
Q. State your name to the court and jury?
A. Melvin Keefer.
Q. Where do you live, Mr. Keefer?
A. I live at Claytonville, close to Claytonville.
Q. Are you a married man? A. Yes.
Q. What is your occupation? A. Farming.
Q. Are you acquainted with Jesse Goatcher? A. Yes.
Q. How far does Jesse Goatcher live from where you live?
A. It is somewhere between two and three miles, I don't know just exactly.
Q. How long have you known him?
A. I have know him about 20 years, I have known him that long, if not longer.
Q. Has he lived in and about that neighborhood during that time?
A. Yes, sir, he lived not over seven miles from me at any one time.
Q. And you have lived in the same neighborhood during that time? A. Yes.
Q. Are you acqauinted with his reputation in that neighborhood for truth and veracity? A. Yes, sir.
Q. Is that reputation good or bad?
A. It is bad.

Mr. Warrum: Take the witness.

Cross-Examination

By Mr.McDonough:

Q. You are a son of the Mr. Keefer who has just left the witness stand, are you? A. Yes, sir; A. Keefer?

4003 Q. Yes. A. Yes, sir.

Q. You heard his testimony, did you?

A. No, I never heard it.

Q. You did not hear it? A. No.

Q. Were you in the court room during the time he was tesifying? A. In here?

Q. Yes.

A. No, I was not in here at the time he testified.

Q. I can't hear you, Mr. Keefer?

A. I was not in here at the time he testified.

Q. Where do you do your trading? A. At Hartford.

Q. You live how far from Hartford?

A. Five or six miles from Hartford.

Q. You are well acquainted there, are you?

A. Yes, sir.

Q. That is a union mining community, is it?

A. Yes, sir.

Mr. McDonough: That is all.

Witness excused.

4004 J. S. Brown, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Warrum:

Q. State your name to the court and jury.

A. J. S. Brown.

Q. Where do you live, Mr. Brown? A. At Cameron.

Q. Where is Cameron located?

A. 22 miles south of here on the Frisco.

Q. Are you acquainted,—first, what business are you in, Mr. Brown? A. Well, I am just trading now.

Q. What business have you been in?

A. I have been in the mercantile business there until two years ago, and then I sold out in July.

Q. In Cameron?

A. Yes, I was about seven years in business there.

Q. As a merchant? A. Yes.

Q. How long? A. About seven years.

Q. Are you acquainted with Jesse Goatcher?

A. Yes, sir.
Q. Where does he live with reference to you?
A. He lives out about six miles east of town, six or seven miles— about seven miles.
Q. How long have you known him?
A. I have known him about 20 years or more.
Q. Are you acquainted with his reputation in that neighborhood for truth and veracity?
A. Well, I guess so, pretty well.
Q. Is that reputation good or bad?
A. As far as his truthfulness is concerned, it is not very good.

Mr. Warrum: Take the witness.

4005 Cross-Examination

By Mr. McDonough:
Q. Did you ever live at Hartford, Mr. Brown?
A. I lived at Old Hartford. I went to school at Old Hartford years ago when I was a kid.
Q. When did you leave Hartford?
A. I dont know, I was a little kid.
Q. I can't hear you, Mr. Brown?
A. I was a small kid when I left Hartford. It was several years ago.
Q. Do your people live at Hartford now?
A. No, they live at Cameron.
Q. Do any of them live at Hartford? A. No.
Q. Where were you in business, at Cameron?
A. Yes.
Q. You have kept up your connections with Hartford, have you?
A. Oh, I have been over there.
Q. You are frequently over there, aren't you?
A. No, I am not over there often.
Q. Were you there from the year 1910 up to 1914 frequently? A. No, sir.
Q. Have you been frequently there lately?
A. I have been there once or twice this year.
Q. In your business at Cameron you sold goods to union miners, did you not? A. No, sir.
Q. Wasn't there a mine near Cameron?
A. There is a mine over at Williams, but I never sold to miners.
Q. That is a union mine?
A. I suppose it is. It is at Williams, Oklahoma. I suppose it is.
Q. That mine is operated by whom, do you know?

A. I believe Abbott, or something like that.
Q. And that mine employs how many men?
A. I don't know how many men work over there.
4006 Q. How far from Cameron is it?
A. About three miles.
Q. Two or three miles?
A. About three miles.
Q. North of Cameron? A. Yes.
Q. Was there any other coal mine near there?
A. No, sir.
Q. You have no relatives living at Hartford?
A. No, sir, I have not.

Witness excused.

4007 WILLIAM MCLACHLAN, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. State your name? A. William McLachlan.
Q. Where do you reside, Mr. McLachlan?
A. At Huntington.
Q. How long have you lived at Huntington?
A. Practically 22 years.
Q. Are you a member of the United Mine Workers of America? A. Yes, sir.
Q. Have you at any time in the past held any official position in that organization? A. Yes, sir.
Q. State what it was?
A. I have held the position of District Board Member in the neighborhood of five years, Vice-President for two months, and President for two months.
Q. Of District 21? A. Yes, of District 21.
Q. Of what states is that district composed?
A. Arkansas, Oklahoma and Texas.
Q. Were you a Board Member of District 21 in 1914?
A. Yes, sir.
Q. Were you occupying that position in April, May, June and July of that year? A. Yes, sir.
Q. Mr. McLachlan, were you sent to the Hartford Valley at any time during the summer of 1914 by the Board, and if so, for what purpose?
A. I was sent sent to the Hartford Valley in the spring of 1914 with instructions to preach or talk peace and keep the peace and respect the injunction of this court.
Q. That is the injunction issued in April of that year?

A. Yes, sir.

4008 Q. Tell the court and jury when you first obtained information that Fred Holt had shipped guns into the Hartford Valley?

A. Along in the latter part of June.

Q. In the latter part of June? A. Yes.

Q. What action, if any, did you take when you found that guns were being shipped in by him?

A. I got in communication with Mr. Stewart, and notified him to the effect that I understood these guns had been shipped into the Hartford Valley.

Q. Who was Mr. Stewart?

A. He was President of District 21.

Q. What followed after you advised Mr. Stewart as to that, or advised him of your information? What did you or Mr. Stewart or any member of the Board do?

A. We ordered Fred Holt to gather up that stuff and get it out of the state of Arkansas at once.

Q. Was that order carried out? A. Yes, sir.

Q. Who was set to the work of gathering up these guns?

A. Why, Fred Holt was the one ordered by the officers of the District, and he had notified in my presence Oscar Layton.

Q. To ship back the guns he had in his possession?

A. Yes, sir.

Q. Well, do you know who gathered up the guns, the Mastell guns, wherever they were located? Do you know who gathered them up and brought them into Hartford?

A. No, sir, I do not,

Q. You do not know? A. No.

Q. Mastell was a merchant down there, was he, Mr. McLachlan?

A. Yes.

Q. At Prairie Creek? A. Yes, sir.

Q. Did you have any knowledge of Fred Holt's action

4009 in shipping those guns in there? A. No, sir.

Q. When you came to Hartford Valley? A. No, sir.

Q. As soon as you gained the information you communicated with P. R. Stewart, the President, and proceeded to force them to take and ship them out of there?

A. Yes, sir.

Q. Do you know where they shipped them to?

A. Yes, to McAlester.

Q. Did you see them there afterwards? A. Yes, sir.

Q. Mr. McLachlan, did you carry out the Board's instructions with reference to doing all in your power to keep down any kind of trouble in the Hartford Valley with the plaintiff companies here? A. I did.

Q. Did anything occur at Frogtown that brought about confusion, or considerable excitement in the community down there, and if so, what action did you take in reference to that?

A. There was constant rumors, almost daily, of things happening. One night the rumor was that Frogtown had been shot up. Two or three nights previous, along about the 14th or the 15th of July,—on the 15th of July, I seen a number of women and children come into Hartford, half dressed and bare footed, and crying. I was informed that they had left their homes on account of being afraid to stay there. I went to the deputy sheriff, or man that held a commission under the sheriff of this county, and told him the situation and asked him to go out there and see that those people were protected. Then is when I phoned Judge Youmans.

Q. And he declined to go, did he?

A. He said he did not have any authority and could not go unless he was ordered by the sheriff.

Q. You are talking now about the deputy sheriff?

4010 A. Yes, I am talking about the deputy sheriff.

Q. Did you communicate with the sheriff also?

A. Yes.

Q. What action did he take?

A. He said, under the circumstances, he could not do anything unless some act actually committed, owing to the construction put on the injunction, he felt powerless.

Q. Then you say you phoned Judge Youmans?

A. Yes, sir.

Q. Did you get him over the phone and have a conversation with him? A. Yes.

Q. State to the court and jury as well as you remember what occurred?

A. It was along between ten and eleven o'clock; somewheres, that I called up the Judge and told him who I was, what I was, and the situation as I understood it in the valley. He referred me to the officers, the county officials. I told him I had called up the sheriff and that he felt that owing to the construction put on the injunction that he was powerless to act. The Judge told me that under the circumstances he had just as much authority now as he ever had. I told him that I was looking for a preventative and not a cure and I would like to have him call up the sheriff and tell him what he told me. He said, "No," he didn't think he could do that, or words to that effect.

Q. That is the conversation as you remember it?

A. Yes, sir, that is the conversation as I remember it, just as near as I remember it.

4011 Q. Mr. McLachlan, did you try to get hold of a man named Holt out there, some officer of the government?

A. I beg your pardon?

Q. Did you try to get in communication with Holt at No. 4?

A. No, sir.

Q. Well, it has been testified here on one occasion, when Mr. Holt was walking down the street of Hartford, you followed him down the street and said, "There he goes, let's get him." Did you say that?

A. No, sir; a majority of that summer Mr. Holt slept across the hall from me in the same hotel.

Q. You both stopped in the same hotel?

A. Yes, sir, and Mr. Black was there with him, and we ate at the same table.

Q. Mr. McLachlan, did you know K. C. Adams?

A. Yes, sir.

Q. Was he in the employ of the district in 1914, District 21? A. Yes, sir.

Q. What part of the year? A. Up until June 15th.

Q. After he left the service of the district, did he return to the district soon thereafter, and if so for what purpose, if you know?

A. He was called back in connection with some disputes over the Bank Guaranty Law and the Qualification Act; the dispute was at Little Rock.

Q. That was in connection with a suit, was it, brought by the Central Coal & Coke Company and the Bankers Association of the state, to prevent the initiation of those two bills?

A. Yes, sir.

Q. That was your understanding of Adams' connection with those two bills?

4012 Mr. McDonough: Object to that, because his understanding would not be definite, it would be only hearsay, and he has not shown the source of his understanding.

Q. What do you know about it?

A. Adams was hired by the district, and ordered by the Executive Board to get up these petitions on this Bank Guaranty Law and the Qualification Act, and had the handling of these petitions for the district in connection with the Federation of Labor.

Q. And the Farmers Union? A. Yes, sir.

Q. The Farmers Union, the Federation of Labor and the Miners organization, as I understand it, were all interested in that? A. Yes, sir.

Q. And that was before Adams left the service of the district?

A. Yes, sir, before he left the service of the district.

Q. Now after he left the service of the district, you say he was called back here to attend the trial at Little Rock before the Chancellor? A. Yes, sir.

Q. Do you know why he was called back here?

A. He was the only one, so far as the Executive Board of District 21 was concerned, that knew any of the particulars of those petitions, and they were in question.

Q. Now, do you remember about when it was that he came back to this state?

A. Why, if my memory serves me right, along in the latter part of July or August, possibly the fore part of August, I don't recollect positively.

Q. Did his trip here have anything whatever to do with the trouble in the Hartford Valley?

A. None at all.

Q. No connection whatever? A. None whatever.

Q. Were you in Kansas City in April, 1914?

A. Yes, sir.

4013 Q. What were you doing up there?

A. I was called up there before the Court in an investigation.

Q. Who else, if anyone of the miners organization, was called there?

A. Why, Dalrymple of Oklahoma, President Stewart, Fred Holt of the officers.

Q. What was that about, tell the jury so they will understand it.

A. Well, that investigation was over the,—

Mr. McDonough (interrupting): I don't see the relevancy of that in this case.

The Court: No, only the fact that there was an investigation, is all that is competent.

Mr. Covington: This is a question as I understand it, they show that John C. White has railroad fare down there, and James Mullen paid his fare there, and we want to show that this had no connection whatever with the Prairie Creek matter, and that each one was in attendance there at Court, the same as the other miners from other states, called there by the court.

The Court: It don't make any difference what it was, excepting that it was not this matter.

Mr. McDonough: We withdraw our objection.

Q. It had no reference whatever to the Prairie Creek matter? A. None whatever.
Q. Was Mullin and White there? A. Yes, sir.
Q. They were there for the same purpose you were?
A. Yes, sir.
Q. Was the Prairie Creek matter ever discussed at any of the meetings held there? A. No, sir, it was not.
Q. It appears in the financial statement of the district that is the auditor's report that has been introduced in evidence here, Plaintiffs Exhibit 191, it appears on page 6,
4014 an item "National Organizer $810.26," listed under the head of "Court costs in injunction case." Do you know what that was for, can you give us any light on that, why that appeared there? A. Yes, sir.
A. Yes, sir.
Q. State to the Court and jury then what your explanation of that is.
A. The district loaned some organizers to the National, during that summer, that were used in Colorado.
Q. And paid for by the district?
A. Paid for by the district.
Q. They were sent into Colorado and did their work in Colorado? A. Yes, sir.
Q. And the district paid them for it? A. Yes, sir.
Q. I believe that is the custom of the organization, where the National is conducting a strike, to furnish, each one, its assistance? A. It happens frequently.
Q. Do you remember any of them that were sent out there?
A. Well, I can—I can recall some of them, I believe. There was a fellow by the name of Gans, and another fellow whose name is Uncle Mose.
Q. Mose Cleavenger?
A. Yes, sir, and a fellow by the name of Isherwood.
Q. Joe Isherwood of Colgate? A. Yes, sir, Joe Isherwood.
Q. Mr. McLachlan, state to the jury, if there was a National organizer in District 21 that had anything whatever to do with the Prairie Creek trouble.
A. Absolutely none.
Q. Have you ever at any time or place, with any person or persons, entered into any conspiracy, contract or agreement to interfere with interstate commerce of non-union coal?
4015 A. No, sir.
Q. Have you ever at any time, had any agreement or understanding with any person or persons, firms or corporations, of any kind or character, by which the means of pro-

ducing non-union coal was to be destroyed by fire and dynamite and murder? A. No, sir.

Q. Were you acquainted,—of course you were acquainted with James Mullin in his lifetime? A. Yes, sir.

Q. He is dead now I believe? A. Yes, sir.

Q. Where did he live? A. At Midland.

Q. He was National Board Member during 1914?

A. Yes, sir.

Q. State to the jury if James Mullin, as National Board Member or in any other capacity, had anything on earth to do with the Prairie Creek matter?

A. None whatever.

Q. None whatever? A. No, sir.

Q. Mr. McLachlan, where were you on the 6th day of April 1914?

A. The 6th day of April I was in Kansas City.

Q. Kansas City, Missouri? A. Yes, sir.

Q. Was P. R. Stewart there? A. Yes, sir.

Q. You have attended conferences, have you, between the operators and miners of the Southwest? A. Yes, sir.

Q. How many conferences have you attended, and in what years?

A. I have been at all the conferences since 1910, that is, in the district.

Q. Since 1910? A. Yes, sir.

Q. Where you in the 1910 and 1912 conference?

A. No, I was not in the 1910 conference, but I was in the convention following the conference that ratified the agreement.

Q. The convention that ratified the agreement?

A. Yes, sir.

4016 Q. Mr. McLachlan, after the deliberations of the conference, after the delegates on each side, the operators and miners meet and tentatively agree upon a contract, what is the practice, by way of approval of that contract?

A. Well, as a rule it is submitted back to the men and voted on; or the delegate representing the men endorse it, and then it is signed by the District Officers and the officers of the Association.

Q. Now, when the contract is referred back to the miners, you call that a referendum vote, I believe.

A. Yes, sir.

Q. And they vote on it? A. Yes, sir.

Q. Now is that all that the membership knows about what has gone on in Kansas City? Is that the result of that vote? What is the result of that vote?

A. That is the contract.

Q. It is? A. Yes, sir.

Q. Now in either of the meetings, of 1910 or 1912 at Kansas City, that you referred to a minute ago, was there any contract, agreement or understanding between the operators and the miners by which the miners were, in consideration of the operators operating their mines with union labor, to go out and interfere with interstate commerce in non-union coal?

A. No, sir.

Q. Was there any contract, agreement or understanding of any kind or character between the operators and miners in either of these conferences, by which the miners could go out and use violence and lawless means and resort to murder and arson in order to destroy the means of producing non-union coal, in order to keep it off of the market in competition with union coal?

A. No, sir, I never heard of it.

Mr. Covington: That is all.

4017 Cross-Examination

By Mr. McDonough:

Q. Mr. McLachlan, I understand you to say you were in Kansas City on April 6th, 1914? A. Yes, sir.

Q. When did you go there?

A. About the 4th of April.

Q. Before you went to Kansas City where were you?

A. Before I went to Kansas City I was in Hartford, a few days previous to that.

Q. Did you live in Hartford at that time?

A. No, sir.

Q. Where was your home at that time?

A. Huntington.

Q. Where you live now? A. Yes, sir.

Q. Do you remember what days you were in Hartford just before April 6th, how many days?

A. Oh, as near as I can recall some—before April 6th?

Q. Yes.

A. The week previous, four or five days, something like that, maybe a week.

Q. How did you go from Huntington to Hartford?

A. Sometimes I drove and sometimes went around on the train.

Q. Drove in an automobile or buggy?

A. No, I used a buggy then mostly, there were not so many automobiles.

Q. How long did you say you had lived at Huntington?

A. About 22 years, practically.

Q. Been engaged in the mining business all that time?
A. Yes, sir.
Q. How long have you been a member of the United Mine Workers of America? A. Since its conception.
Q. Have you held an official position all the time?
A. No, sir.
Q. How long have you held an official position?
A. About seven years.
4018 Q. The same position that you now hold?
A. No, sir.
Q. What position did you hold first?
A. District Board Member.
Q. Of District 21?
A. Of the Arkansas District 21, yes, sir.
Q. When was that? When did you first hold an office?
A. About,—I think about April 1st, 1911.
Q. And that was District Board Member? A. Yes, sir.
Q. Of the Arkansas District of District 21?
A. Yes, sir.
Q. You had two boards at that time, did you?
A. No, sir.
Q. Where were the headquarters of District 21 in 1911, at the time you became a member? A. McAlester.
Q. Oklahoma? A. Yes, sir.
Q. Did the headquarters remain at that place?
A. Yes, sir.
Q. And still there? A. Yes, sir.
Q. How far is it from Hartford to McAlester?
A. Hartford to McAlester, oh, in the neighborhood of 90 miles, possibly a hundred.
Q. The Rock Island railroad runs between the two places?
A. Yes, sir.
Q. Some three or four hours ride between them?
A. Somewhere along there; it depends on the time they are making.
Q. Were you ever at Hartford any during March 1914?
A. Yes, sir, I believe I was.
Q. How long did you stay in Kansas City?
A. I left Kansas City along about,—a little after, or about the middle, about the 18th of April.
Q. You remained in Kansas City from the 6th to the 18th did you? A. I think so, as near as I can remember.
4019 Q. I didn't understand your last answer.
A. I said as near as I can remember, yes, sir.
Q. Continually? A. I think so.
Q. Remaining there as a board member of District 21?
A. I was there at an investigation.

Q. I say as a board member of District 21?
A. I was a board member of District 21.
Q. I didn't ask you what you were there, but were you there as a representative of District 21? A. Yes, sir.
Q. Were other board members from Arkansas, or the nearby Oklahoma fields there with you?
A. Dalrymple, Stewart and Fred Holt, that is the officers of District 21, were there.
Q. During your stay there, between April 6th and April 18th, was James Mullin there part of the time?
A. Yes, sir.
Q. Was John P. White, president of the United Mine Workers there part of the time? A. Yes, sir.
Q. Do you know how long James Mullin had lived at Midland, Arkansas, or in that neighborhood?
A. He had been there for a number of years, I would judge possibly eight or ten years.
Q. What age man was he?
A. That would be pretty hard for me to say, Mr. McDonough.
Q. About how old would you think he was, a young man or elderly man? A. He was an old man.
Q. He lived there and engaged in mining coal for a number of years, did he? A. Yes, sir.
Q. And was well known throughout that community, was he? A. Yes, sir.
Q. When you returned from Kansas City did you go to Hartford again?
4020 A. I was in Hartford shortly after I came back from Kansas City, yes, sir.
Q. How long did you stay in Hartford at that time?
A. Well, possibly a day or two, I can't tell you exactly.
Q. Did you remain in Hartford during the latter part of April 1914?
A. Well, I cannot say that I was there continually.
Q. Were you there a good many days during that time?
A. I was there a good deal of the time, yes, sir.
Q. During that time were you furnishing strike benefits to the miners at Prairie Creek No. 4, that had been working at the Prairie Creek No. 4?
A. During which time?
Q. During April 1914? A. No, sir.
Q. In May where were you?
A. I was around through Sebastian County here, and Hartford and Midland and Jenny Lind and Huntington.
Q. Did you spend a good deal of time in the early part of May in and about Hartford?

A. Some of it, yes, sir.
Q. Were you here in Fort Smith in May?
A. I think so, yes, sir.
Q. Did you meet Mr. John P. White President of the United Mine Workers here in Fort Smith?
A. I met him at the convention, if that was in May.
Q. Do you remember whether that was in May?
A. I think it was.
Q. May 18th to the 20th? A. About that time.
Q. Have you any way of refreshing your memory to see just what day it was?
A. Oh, yes, I could get you the exact date.
Q. How could you get them, by reference to your books?
A. Yes, sir.
Q. In order to see if we can fix the time, I will ask you to look at this special convention proceedings, Plaintiffs Exhibit 32, and see if that refreshes your recollection as
4021 to the dates that you were in Fort Smith?
A. This seems to be a record of the special convention, yes, sir.
Q. Does that refresh your memory as to the dates that you were in Fort Smith?
A. I was here during that convention.
Q. What date is it? A. The 18th of May.
Q. 18th to the 20th of May?
A. Is that what it is?
Q. I am asking you?
A. Yes, sir, Monday May 18th, 1914.
Q. How many days was your convention in session?
A. I believe about three or four days.
Q. James Mullin was here during that time?
A. James Mullin, yes, sir.
Q. And you have already said Mr. White was here, and any other Board Members? A. Yes, sir.
Q. P. R. Stewart here, the President of the district?
A. Yes, sir.
Q. Where did you go after that meeting was over?
A. After that meeting was over I believe I went by home.
Q. Then, did you go to Hartford again?
A. I was there shortly afterwards.
Q. When did you begin paying strike benefits to the miners that had been mining coal at the Bache-Denman Mine?
A. Six weeks after Mr. Bache locked them out.
Q. Six weeks after? A. Yes, sir.
Q. Then what was your statement of the date, that is the question I asked you? A. The date?

Q. Yes. A. Of what?
Q. That you began paying strike benefits to the miners.
A. Six weeks, according to the constitution, after
4022 they were locked out.
Q. You don't remember then?
A. Not the exact date, no, sir.
Q. You could not approximate that date at all?
A. Not without referring to the records.
Q. Where were you during the month of June?
A. The month of June,—I was in Hartford part of the time; Huntington part of the time, Jenny Lind, and Greenwood, McAlester and Fort Smith.
Q. Where were you during July?
A. July, practically the same places.
Q. Who was the sheriff that you referred to a moment ago that you talked to? A. Lon Norris.
Q. He has been sheriff here for a long time?
A. He had.
Q. Who is the deputy that you said you spoke to?
A. Baker, I think was his name.
Q. What was his first name?
A. I think Will, I couldn't be positive.
Q. Will Baker? A. Yes, sir.
Q. Do you know where he is now? A. I do not.
Q. Have you seen him here?
A. No, sir, I have not seen him.
Q. What time in the night was it you called up Judge Youmans?
A. Between 10:00 and 11:00 o'clock, as near as I remember.
Q. Did Judge Youmans tell you in that conversation that the marshals had been brought in, that they were not out there? A. Not that I remember of.
Q. Did you telephone to the sheriff again after you had telephoned Judge Youmans?
A. No, I believe not; I asked the Judge to telephone him.
Q. And he told you he would not?
A. Words to that effect.
4023 Q. And then you didn't telephone the sheriff yourself after that? A. No, sir.
Q. That was 10:00 or 11:00 o'clock at night, July 16th?
A. July 15th.
Q. July 15th? A. I think so.
Q. The battle was on July 17th, was it? A. I think so.
Q. And was this two nights before? A. Yes, sir.

Q. Are you not mistaken about that, was it not the night before, on Thursday night?

A. [I] might be, but I am trying to tell it as near as my recollection is.

Q. And your recollection is that it was on the night before?

A. The night before which?

Q. I mean two nights before the battle.

A. If I remember correctly, yes, sir.

Q. Where were you, Mr. McLachlan, when you were telephoning Judge Youmans?

A. In the telephone office at Hartford.

Q. How long had you been at Hartford that day? All day long? A. I think so, practically.

Q. Did you stay there that night? A. I did.

Q. That was Wednesday night, as you remember it?

A. Yes, sir.

Q. And on Thursday, where did you go?

A. I went to Greenwood.

Q. Stay there very long?

A. I was there, and went on the Midland Valley at 7:00 o'clock that night.

Q. Did you go back to Hartford that night? A. Yes, sir.

Q. You were in Hartford on Thursday night?

A. On the night of the 16th, yes, sir.

Q. Did you remain there all night? A. Yes, sir.

Q. Where were you on the 17th? A. In Hartford.

Q. You remained there all day? A. Yes, sir.

4024 Q. Did you go out to the mines that day?

A. I did not.

Q. Did you hear any guns fired that day? A. I did not.

Q. Did you hear any explosion of a mine blowing up?

A. No, sir.

Q. See any smoke from the direction of the mine?

A. I seen quite a cloud of smoke, yes, sir, but I didn't know what it was at that time.

Q. You didn't go out there to see? A. No, sir.

Q. You knew James Slankard, did you? A. Yes, sir.

Q. Do you remember what time it was the injunction trial was had here in Fort Smith?

A. The application for the injunction?

Q. No, the permanent injunction, the trial.

A. The permanent injunction,—along in April, was it not?

Q. You attended it, did you? A. No, sir.

Q. You were not here at all?

A. Not at the injunction proceedings.

Q. You think that was in April?

A. I couldn't say positively.

Q. If you don't remember say so.
A. I don't remember the exact date.
Q. Now then, were you present when the contempt proceedings were first brought up, when Sandy Robinson and Clint Burris and all of the others, Pete Stewart, were charged with contempt, you were here then?
A. I was here part of the trial.
Q. When was that, Mr. McLachlan?
A. In the fall,—I don't just remember, Mr. McDonough, all that stuff; it is pretty hard to get it just exactly.
Q. Mr. McLachlan, to refresh your memory, you certainly don't mean that was in the fall. Let me ask you if it was not in the spring, either in May or June, that the contempt
4025 proceeding was first had? I will ask you if it was not May that Clint Burris and Sandy Robinson and the others charged with contempt, and the evidence occupied several days along in May sometime?
A. I was here I believe a day in May, or along in the spring there some time, at some proceeding.
Q. And you understood that to be the contempt proceeding against Clint Burris and the others, Sandy Robinson?
A. I think so.
Q. Now, that was in May now. Now then, do you not remember also that during that time Fred Holt was a witness here?
A. I understood that Fred Holt was a witness, but I was not here when he was.
Q. You were here with Fred Holt when he was in Fort Smith as a witness in that trial?
A. Now, let me see; I wouldn't say positively that I was or was not.
Q. Were you not here when James Slankard was on the witness stand, and heard him testify?
A. I don't believe I did.
Q. Do you know that the contempt proceeding was reopened after the battle of July 17th, and new evidence taken in the case, occupying two weeks and more, along in August?
A. I believe I do remember something about it.
Q. Now, Mr. McLachlan, when was the first information you had of the fact that Holt had shipped guns to the union miners? A. Along the latter part of June.
Q. Was it not after Holt had gone on the witness stand in that contempt proceeding and admitted that he shipped the guns? A. Well, I couldn't say as to that.
Q. And did not you and Stewart and Holt then get uneasy, fearing that you had violated the law, and then
4026 get busy to send the guns back?

A. No, sir, I never got uneasy because I had never violated the law.

Q. Did you hear Mastell testify in the case? A. No, sir.

Q. And didn't hear Slankard, I believe I asked you that.

A. I don't believe I did.

Q. Was it not after the first trial, and after Holt had gone on the stand, and after information had gone out to the public, by being brought out in Court, that you then made some effort to get the guns gathered up, as you testified?

A. The first information I had of guns being in that valley, I raised the complaint, and we ordered them taken out.

Q. That was after it became public, was it, through Holt's evidence?

A. No, sir, not to my knowledge; I don't know anything about Holt's evidence.

Q. You were not in conference with Holt occasionally about that matter? A. About which?

Q. About the strike situation down there?

A. Occasionally, but not very often.

Q. You were over at McAlester occasionally during May, June and July, were you? A. Yes, sir.

Q. And Holt was the Secretary-Treasurer of your organization? A. Yes, sir.

Q. You were a board member? A. Yes, sir.

Q. You had a strike on hand over there?

A. He had a lock-out.

Q. That is the same as a strike, as far as benefit is concerned?

A. There is some difference in a strike and lock-out.

Q. There is some difference, but as far as benefits are concerned, and as far as [they] duty of your organization to support its miners, it is the same?

4027 A. As far as the aid is concerned.

Q. And you conferred with Secretary-Treasurer from time to time, from whom you got the money, about that matter? A. I had nothing to do with that at that time.

Q. About the aid? A. No, sir.

Q. You knew Mr. P. R. Stewart? A. Yes, sir.

Q. And were frequently in consultation with him?

A. It was not so frequent.

Q. Occasionally you saw him? A. Yes, sir.

Q. It was your duty to confer with him? A. Yes, sir.

Q. And his duty to confer with you? A. Yes, sir.

Q. About matters of that kind, and matters in which the union was interested? A. Yes, sir.

Q. And that matter remained in existence during May, June and July? A. Yes, sir.

Q. And during that time, and before those guns were ordered out, you say that Mr. Holt never consulted you about it?
A. About the guns?
Q. Yes. A. I said he never did.
Q. He didn't tell you he had signed checks for hundreds of dollars to send guns over there? A. He did not.
Q. Did you not know, during the time before those guns were sent over there, that the secretaries in your place, Hartford and around there, and the unions at that place were writing letters to Holt to send guns over there? A. I did not.
Q. You did not? A. No, sir.
Q. You were in daily communication with the secretaries of the locals about Hartford? A. Yes, individually.
Q. Not in their meetings? A. No, sir.
4028 Q. And you heard nothing of any requests going up from those locals to Holt, the secretary-treasurer, to get some guns? A. No, sir.
Q. Never even heard of anything of that kind?
A. From those local unions to Fred Holt?
Q. Yes. A. No, sir.
Q. Never heard of it at all? A. No, sir.
Q. Do you know a man by the name of Thomas that lived in Hartford? A. No, sir.
Q. That lived afterwards over near McCurtain, Oklahoma?
A. No, sir.
Q. You didn't know anything about his having a wagon load of guns in there? A. No, sir.
Q. You never heard of that, did you? A. No, sir.
Q. You know that it is the duty of the president to countersign the checks, on matters of that kind, or any checks?
A. Yes, sir.
Q. And you never talked with Stewart about it, and he never talked with you about it? A. No, sir.
Q. Now, Mr. McLachlan, you heard nothing of any impending trouble on the 12th or 13th of July, did you?
A. The rumors were flying around there of these people being scared at Frogtown, and about the action of these supposed guards, and men inside the stockade.
Q. That was circulated pretty freely?
A. That was public rumor.
Q. During that time you heard nothing of any impending attack by the union miners upon the non-union men, did you?
A. No, sir.
Q. Never heard of that at all? A. No, sir.
Q. Then on the 15th you never heard of it, did you?
4029 A. Of what?

Q. Of any attack by the union miners upon Prairie Creek No. 4. A. No, sir.

Q. You never heard of it during the night of the 15th?

A. Of this intended attack of the union on No. 4?

Q. Yes. A. No, sir.

Q. You saw no guns in Hartford? A. On the 15th?

Q. The 15th, 16th or 17th?

A. I saw some guns on the night of the 16th.

Q. On the night of the 16th? A. Yes, sir.

Q. You didn't see very many, did you?

A. I seen several.

Q. About how many? A. Oh, maybe eight or ten.

Q. That was all, and they were held by people who were protecting the town?

A. They were held by the mayor of the town, and several men with him.

Q. They were out guarding an attack from scabs, that was your understanding of the situation?

A. They were out guarding the town, to keep it from being burned up, is my understanding.

Q. Tell us why you became so uneasy on the night of the 15th, that you called up the Judge of the United States Court, and talked to him about the matter?

A. I see those people walking in there, and the condition they were in, and that was my only reason.

Q. You didn't expect any assault from these people, of course, the women and children that were marching in there?

A. I expected that the people of that valley would get tired of it after awhile, and do something, if they were not protected.

Q. And do something? But you had in mind only an attack from the non-union men, did you?

4030 A. I beg your pardon?

Q. You had in mind only the idea of an attack from the non-union men? A. No, sir.

Q. Did you have that in mind when you were talking with Judge Youmans? A. I did not.

Q. Did you have in mind any attack by the union men against the non-union men, when you were talking with Judge Youmans?

A. I had in mind that American people will stand just so much.

Q. That doesn't answer the question. Did you have in mind when you were talking with Judge Youmans the possible attack by the union men on these non-union camps?

A. No, sir, I didn't have any fear of the union men.

Q. Then you had in mind, when you were talking to Judge Youmans, only an assault by the non-union men on the town of Hartford? A. No, sir.

Q. Did you have that in mind at all?

A. No, sir, I didn't have that in mind.

Q. Then what did you have in mind when you appealed to the Judge of the United States Court?

A. As I told you before, the fact that American people and citizens will stand for just so much.

Q. And that was the only reason? A. Yes, sir.

Q. And they stood just so much, and then went out and destroyed the property?

A. That is my opinion, they stood just so much.

Q. You don't know about the murder? A. I do not.

Q. You didn't go up and burn that house? A. Hardly.

Q. And you didn't see the bodies after they were killed?

A. I did not.

Q. And didn't hear of it at all?

A. I saw the rumors in the paper, like everybody else did.

4031 Q. And that is all the knowledge you had about it?

A. That is all.

Q. You saw McNamara during the day? A. What day?

Q. The 17th? A. I don't believe I did.

Q. Did you see Slankard either?

A. I believe I seen Slankard along in the evening on the streets of Hartford.

Q. You didn't get any information about the killing from anybody? A. I don't believe I did.

Q. Did you know Sylsberry, one of the men that was killed?

A. I didn't know Sylsberry.

Q. And you didn't know Baskins, the one-armed man?

A. I did not.

Mr. McDonough: I would like to ask permission of the Court for Mr. Drinker to finish the cross examination of the witness on another phase of the case with which he is more familiar.

The Court: It is out of the ordinary, but it may be done.

Questions by Mr. Drinker:

Q. The occasion of your being in Kansas City in May, when you and Mr. White and Mullins was there, that was over a suit that was brought by Mr. Bache against the Operators Association?

Mr. Warrum: That was the very thing they objected to.

The Court: Yes.

Mr. Drinker: The objection was withdrawn.

The Court: But not until after the Court had ruled upon it.

Mr. Drinker: I want to show that it was the same suit that White was talking about when he spoke of breaking the jaws of the Colorado guards.

4032 The Court: If you wanted to prove it you shouldn't have objected to it. The objection was withdrawn not until after the Court had ruled, and the record was there.

Mr. Drinker: I thought the objection was withdrawn.

The Court: It was, but not until after the record was made, and the answer never was given to the question.

Mr. Drinker: But did not Mr. McLachlan answer it was a lawsuit; he answered that it was a lawsuit. Now, can I ask what the lawsuit was?

The Court: I don't think that he answered that it was a lawsuit.

Mr. Drinker: I think he said that he was there about some legal proceedings, and I want to ask him who brought the legal proceedings.

The Court: Objection sustained as improper cross examination.

To which ruling of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Q. Mr. McLachlan, do you remember that Mr. Stewart and Mr. Mullin went back from Kansas City to Fort Smith on the 8th of April, and stayed here two days, and came back to Kansas City on the 10th?

A. No, I can't say that I do recall that.

Q. You don't remember that they both came back here on the 8th and stayed for two days?

A. They may have done it, I can't say.

Q. Did you talk to Mr. White about the incidents at Prairie Creek? A. No, sir.

Q. Do you know that anybody did?

A. I never heard it mentioned with Mr. White.

4033 Q. By anybody there? A. I seen it in the paper.

Q. You don't know where Mr. White got his information about it then? A. No, I do not.

Q. Now when you came back here to this conference on May 18th, to this convention, Mr. White was here all that time, was he?

A. Yes, sir.

Q. That lasted the whole week, did it, from Monday until Saturday? A. Practically a week.

Q. You were all here from Monday to Saturday?

A. I think so.

Q. And Mr. White was here all that time?

A. To the best of my recollection he was.

Q. Now that conference was called, was it not, in connection with the charges that had been made in a suit by Mr. Bache against the Southwestern Interstate Operators Association, concerning members of the union, Holt and Howat?

A. That convention was called to try Fred Holt, and that only.

Q. And that trial was in connection with a suit that had been brought by Mr. Bache?

A. That trial was over the fact that Holt was accused of having received,—or done something.

Q. I don't want to go into particulars, but the question I asked you, that convention was in connection with a suit that had been brought by Mr. Bache against the Southwestern Operators Association?

A. It grew out of information that appeared in that suit.

Q. And that suit had been brought by Mr. Bache?

A. That was my understanding.

Q. And that was the whole purpose of the convention, was to discuss those charges against Holt?

A. That, and that only.

4034 Q. Now, did you hear all that went on at the convention?

A. Practically, yes, sir.

Q. You heard Mr. White's various speeches in that convention?

A. Yes, sir.

Q. Did you discuss with Mr. White at all the occurrences down at the Bache-Denman Mines on the 6th of April?

A. I did not.

Q. Did you hear anybody else discuss it with him?

A. No, sir.

Q. Did he say anything in that convention that is not recorded in the printed proceedings?

A. Not that I know of, they don't easily get by with anything in those conventions without being made a record of.

Q. And he talked to you and Mullins and Stewart and all the rest of the people that were there frequently, outside of the debates?

A. Individually, not collectively.

Q. Did you ever hear him in any way discuss the events of the 6th of April down there? A. No, sir.

Q. You stated that you were instructed by your people to go down there for the purpose of preventing violence, and preventing any illegality?

A. I stated that I was instructed by my people to go there and tell those men that they must respect the injunction.

Q. Did Mr. White ever say anything of that kind to you?

A. No, sir, he had nothing to do with that at all.

Q. That is not what I asked you, did he ever give you instructions of that kind, or advice of that kind?

A. No, sir.

Q. Did you ever hear him give advice of that kind to anybody else? A. No, sir.

4035 Q. Did you ever hear him express any disapprobation of anything that happened there to yourself, or any of the United Mine Workers officials, that week?

A. No, sir.

Q. You did not? A. I did not.

Q. What actions did you or anyone else take in connection with disciplining any of the union men who took part in that demonstration of April 6th?

A. I don't know personally that any of them took part in it.

Q. Will you please answer the question?

A. I beg your pardon?

Q. What if any action did you, or any other officer of the United Mine Workers take in connection with disciplining people who took part in that demonstration, that were members of the United Mine Workers?

A. Which demonstration?

Q. April 6th?

A. I was in Kansas City, and knew nothing about it only paper hearsey.

Q. Did you, or any other officer of the United Mine Workers, either of District 21 or the International Organization, ever take any action whatever towards disciplining any of the United Mine Workers that took part in the demonstration of April 6th?

A. I did not.

Q. Did you investigate it fully to find out who was responsible for that, and took part in it? A. No, sir.

Q. You made no such investigation?

A. It was in the court.

Q. Did you make any investigation as an officer of the United Mine Workers to find out who was responsible for that?

A. No, sir, I was not called upon to do it.

Q. You did not consider it a part of your duty as an
4036 official of the United Mine Workers to make any investigation as to who was responsible for those men getting hurt down there.

A. There was no complaint, as far as I knew.

Q. You didn't consider it your duty to find out who was responsible for that, and to discipline those that were responsible, if you found any of the United Mine Workers were connected with it?

A. We usually let the law take its course.

Q. Then you took no steps inside the organization to discipline men guilty of violence in labor disputes?

A. We let the law take its course, and we enforce the constitution.

Q. And you never took any steps to fine or discipline or expel from the union a man connected with violence in a labor dispute?

A. I don't get your question, Mr. Drinker.

Mr. Drinker: Read the question.

(Question read by official stenographer as follows: "Q. You never took any steps to fine or discipline men connected with violence.")

A. I never had the question brought up, that I know of.

Q. Now, did Mr. White make any inquiries of you, or any other officer of District 21 in your presence, as to whether any of the members of the United Mine Workers were connected with that trouble of April 6th, during the week that he was here?

A. No, sir.

Q. You never paid any attention to it?

A. He never discussed it with me.

Q. You mean to say that the trouble of April 6th was not discussed in your presence by Mr. White during that whole week?

A. No, sir, it was not.

4037 Q. Was the fact that Mr. Bache had attempted to operate his mines non-union discussed by Mr. White with any of you?

A. Not to my knowledge.

Q. He never mentioned the fact? A. No, sir.

Q. He didn't mention the fact that the boys had marched in and broke the jaws of the Colorado guards, and put the United Mine Workers flag on the tipple?

A. Not to my knowledge.

Q. And he never took any steps to prevent reoccurrence of that by the United Mine Workers?

A. During that convention?

Q. Yes. A. Not to my knowledge.

Q. He never mentioned the fact that the United Mine Workers flag had been put on the tipple at the end of that demonstration?

Mr. Warrum: The witness has answered that several times.

The Court: I think he has.

Mr. Drinker: I withdraw it.

Q. Now, Mr. McLachlan, you know that this $810.00, that was paid to the National Organizer, was paid out of the defense fund, was it?

A. Now, I can't say as to that, whether it was paid out of the defense fund or not.

Q. You don't know that it was?

A. The only knowledge I have of what fund it came out of was the report there.

Q. If that report on page 5, of Exhibit 191, shows disbursements, "Defense fund" in large capitals, and that comes under that general heading, does that indicate to you that it came out of the Defense fund?

A. That is all the record I have of it, and all I know about the fund it came out of.

4038 Q. Does that prove to you that it came out of the defense fund?

A. It says so.

Q. The same thing is true of K. C. Adams, publicity agent, the two items in that same record?

A. K. C. Adams in that same record?

Q. Yes, right under National Organizer.

A. Well, I don't think K. C. Adams, that item of K. C. Adams, came out of the defense fund.

Q. What fund did it come out of?

A. He was under salary from the district until June 15th.

Q. It says in here, "K. C. Adams, publicity agent, $454.63," and another item, "K. C. Adams, special account, $25.24."

A. I think that $25.00 was a personal borrow.

Q. You are familiar with the constitution of District 21, are you? A. I think so, yes, sir.

Q. Adams had an office, did he not, of National Publicity Agent? Was he not the National Publicity Agent of the International Organization? A. After June of 1914.

Q. He was?

A. That is my understanding, he went to the National.

Q. He was appointed by President White?

A. I think so, I can't say positively.

Q. Who was the National Organizer that got $810 and some cents, in Mr. Holts' report?

A. There were some two or three of them. They were not National Organizers.

Q. The report says, "National Organizer."

A. I understand what the report says.

Q. And you say that is wrong?

A. I say they were organizanizers loaned by the district to the national, and paid by the district.

Q. Do you know who was the National Organizer that
4039 got $810.00? In that report, or is the report wrong?

A. I know that the organizers were loaned to the National by the district and paid at that time.

Q. You know that was the practice, but do you know what individual got the $810.00?

A. There was no individual got the $810.00.

Q. And when it says "National Organizer" instead of National Organizers, it is wrong?

A. The man that set the type would be better qualified to answer that than I would.

Redirect Examination

By Mr. Covington:

Q. Mr. McLachlan, you were asked by counsel for the plaintiffs about the countersigning of checks, as to Mr. Stewart's signature on the end of the checks. What was the custom with reference to his signing the checks ?

A. The president of the district usually signs up a hundred or more checks when he is leaving the office.

Q. Owing to how long he is going to be gone?

A. Yes.

Q. He countersigns those blank checks in order to carry out the business? A. Yes, sir.

Witness Excused.

4040 THOMAS M. KING, called as a witness in behalf of the defendants having been duly sworn, testified, as follows:

Direct Examination

By Mr. Covington:

Q. State your name? A. Thomas M. King.

Q. Where do you live, Mr. King?

A. At Fort Smith, Arkansas.

Q. What is your occupation?

A. At the present time I am International Organizer for the United Mine Workers of America.

Q. How long have you been engaged in digging coal?

A. Thirty-three years.

Q. Mr. King, have you ever been an officer of District 21 of the United Mine Workers of America?

A. Yes, sir.

Q. When?

A. I was elected a member of the Executive Board in 1900, and served on the Board in 1900 and 1901. In 1902 I was elected Vice-President and served as Vice-President until 1904.

Q. Have you at any time attended any of the conferences between the miners and operators of the South west? A. Yes, sir.

Q. In what years?

A. I attended the conference of the miners and operators in Ft. Smith in 1902. I attended the Interstate Joint Conference of the miners and operators in Pittsburgh, Kansas, in 1903. I attended the Interstate Joint Conference of the miners and operators in Kansas City in 1908.

Q. Now, at either of these conventions or conferences, did the miners and operators have any agreement or understanding or contract of any kind or character by which the miners, in consideration of the operators operating their mines with union labor, were to go out and interfere
4041 with the transportation of non-union coal in interstate commerce?

A. No, sir.

Q. Did they have any contract, agreement or understanding of any kind or character, at either of these conferences, by which the miners, in consideration of the operators operating their mines with union labor, were to go out and through doing murder, arson, and acts of violence and lawlessness, of any kind, destroy the means of producing non-union coal in order to keep it off of the market in competition with union coal?

A. Never to my knowledge.

Q. Mr. King, were you in Arkansas in July, 1914?

A. Yes, sir.

Q. Do you remember the visit of K. C. Adams from Trinidad, Colorado, to this state, to this city and Little Rock?

A. Yes, sir.

Q. State to the jury the reason for his coming and who requested him to come?

A. He was requested to come by,—if my memory serves me right, I think the telegram was sent to him from Ft. Smith. I am not sure whether it was sent by President Stewart or the attorney. He had been employed by the Mine Workers to circulate a petition throughout the state for a miners' qualification act and a bank guaranty law in connection with the State Federation of Labor, and the farmers union, and the Central Coal & Coke Company, as I remember, and the State Bankers' Association, served an injunction on the Secretary of State, prohibiting him from certifying out the bills, and there was some question came up in regard to the legality of the petitions, and Mr. Adams was wired to come here as he was the man that had handled the petitions,
4042 or had employed the men who circulated the petitions. And he was fetched here for that purpose.

Q. You were in Little Rock,—or were you in Little Rock during that trial? A. Yes, sir.

Q. Mr. King, did you attend the Special Convention of the miners of District 21 in May, 1914, held in this city, when Fred Holt was tried?

A. No, sir, I did not attend that convention.

Q. To your knowledge did any International Board Members or anyone connected with the International organization, to your knowledge, have anything to do with that Prairie Creek trouble?

A. None whatever to my knowledge.

Q. Under the constitution John P. White could not have anything to do with it, Mr. King, could he?

Mr. McDonough: I object to that. The constitution would be the best evidence.

The Court: What is the objection?

Mr. McDonough: The constitution speaks for itself.

Mr. Covington: I withdraw the question.

The Court: The constitution would not prevent him being connected with it. The constitution might be violated. If you insist on your objection, however.

Mr. McDonough: We withdraw the objection.

Mr. Covington: We withdraw the question. That is all.

Cross-Examination

By Mr. Drinker:

Q. Mr. King, Mr. Adams was here in the fall 1914 when these men were indicted on account of the Prairie Creek trouble? You saw him around there then when the grand jury was meeting?

4043 A. I don't think I was here. I don't know whether he was here or not.

Q. You do not remember of his being in Ft. Smith in the fall, after September, around October, November, December? A. No, sir, I do not.

Q. Mr. Adams has been here during this trial, has he?

A. I saw him here a few days; I saw him here in the court room.

Mr. Drinker: That is all.

Witness Excused.

4044 GUS G. SPARLING, caled as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. Your name is Gus Sparling? A. Yes, sir.

Q. Where do you live? A. In Mingus, Texas.

Q. How long have you lived in Texas?

A. I have lived in Texas about 20 years.

Q. What is your occupation? A. Miner.

Q. How long have you been a miner?

A. About 36 or 37 years.

Q. Have you during this period been connected with District 21 of the United Mine Workers in an official capacity, and if so, what?

A. I have been District Board Member for Texas for about,—well, I was for four years.

Q. Talk loud enough so the jury can hear you, Mr. Sparling?

A. I was District Board Member for Texas for four years, that is from 1911 to 1915. Then I dug coal for about a year and then I was National Board Member for about a year, and after the expiration of that term, I was appointed here as acting Board Member throughout Arkansas and Oklahoma. Then I was appointed Board Member for Texas and at the present time I am Texas Board Member again.

Q. Have you during the years referred to been a delegate to any of the conferences between the miners and operators looking to the negotiation of a contract for coal?

A. Yes, sir, I have been a delegate to the operators and miners conferences since 1908 in Texas.

Q. In Texas? A. Yes, sir.

4045 Q. You negotiated your contract in Texas separately from the other states?

A. Yes, sir, for Texas.

Q. In those conferences did you have any agreement or contract or understanding of any kind or character by which the miners, in consideration of the operators operating their mines with union labor, were to go out and interfere with the transportation of non-union coal in interstate commerce? A. I never have.

Q. Did you ever know of any contract, agreement or understanding of any kind or character by which the miners, in consideration of the operators operating their mines with union labor, were to go out and resort to lawlessness and violence, murder and arson, in order to destroy the means of producing non-union coal and keep it off of the markets in competition with union coal? A. No, sir.

Q. You never heard any such talk as that?

A. No, sir.

Q. Mr. Sparling, were you a Board Member of this District in 1914, in the summer of 1914? A. Yes, sir.

Q. I will ask you if you knew that Fred Holt, the Secretary-Treasurer, was shipping guns into the Hartford Valley to certain parties?

A. Just state that question again.

Q. Did you know that he was shipping any guns, or going to ship any guns before they were shipped in there?

A. No, sir.

Q. Did you ascertain that fact afterwards?

A. The first I heard of it was when Mr. McLachlan reported it to the District Board. I think it was on the 28th of June that the guns had been ordered out. That is the first I heard there were any guns or had been any guns in there.

4046 Q. Do you mean to say that the Board immediately ordered Mr. Holt to take them out?

A. Yes, had already ordered them taken out. The report was by McLachlan that Fred Holt had shipped guns in there and that they had ordered them to take them out.

Q. And that was the first intimation you had of anything of the kind?

A. Yes, that was the first intimation I had of anything of the kind.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. Drinker:

Q. How many board meetings did you have during the summer of 1914, Mr. Sparling?

A. I don't know.

Q. How many did you attend?

A. Well, I could not tell you.

Q. The only one that you remember is that of June 10th, June 20th? A. The 28th, I said.

Q. You remember you were at that [tone?] A. Yes.

Q. How would you be able to tell how many meetings you would attend?

A. According to my expense accounts. Whenever I went from Texas to McAlester that was the only reason I ever went to McAlester, usually.

Q. Was Fred Holt there at that board meeting?

A. I think he was.

Q. He was there and kept the record of what was done at the meeting, did he, as Secretary?

A. I suppose he did. I don't know what he done. I don't know nothing about the keeping of the records.

Q. Didn't he usually keep the records of what was done at the meetings? A. I expect he did.

Q. When you were at the next meeting would you
4047 read the minutes of the meeting before or not, to your best recollection?

A. I cant recollect about that.

Q. You cant recollect about that? A. No.

Q. Well, you remember his keeping the records of the meetings as Secretary, dont you?

A. Yes, he kept records there, but how he kept them I dont know.

Q. Of those and other meetings during that time?

A. I dont know as regards to this meeting. I dont even know whether he was there.

Q. Would the records show how many meetings were held by the board during the summer of 1914?

A. I have never looked at one of his records. I dont know.

Mr. Drinker: That is all.

Redirect Examination

By Mr. Covington:

Q. You were very rarely up there from Texas?

A. Yes, only when I was called up there to board meetings.

Witness Excused.

4048 WILLIAM DALRYMPLE, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. State your name. A. William Dalrymple.

Q. Where do you live, Mr. Dalrymple?

A. At Coalgate, Oklahoma.

Q. What is your business

A. At the present time I am International Board Member of District 21.

Q. How long have you been a coal digger?

A. I have been,—I started one day before I was 12 years old. At the present time I am 37. I worked in the mines for about 18 years.

Q. Have you at any time held any official position in District 21 of the United Mine Workers?

A. I was Board Member for four years.

Q. What period did that cover?

A. Beginning about 1911.

Q. Were you Board Member in 1914? A. Yes, sir.

Q. During the time that you have been connected with the organization, in an official capacity, have you represented the organization as a delegate in any of the conferences held between the miners and the operators looking to the making of a contract?

A. Along about 1910, as I remember, was the first.

Q. That was the first convention that you attended?

A. Yes, sir, I had been in district conventions prior to that, but that was the only time I remember wherein the operators were present.

Q. Did you attend the 1912 and 1914 conventions?

4049 A. No, not as a delegate.

Q. Were you there?

A. I was not present in their meetings.

Q. In 1910 were you a delegate?

A. I was there until they broke off negotiations.

Q. Do you know Mr. Franklin Bache?

A. I have heard tell of the gentleman.

Q. Do you remember whether he was in the 1910 conference or not?

A. I could not swear, because I was not in there with the operators and the officials representing the miners at that time.

Q. Mr. Dalrymple, in the conference of 1910, or at any other time or place, do you know of any contract, agreement

or understanding of any kind or character between the miners and the operators in which the miners agreed, in consideration of the operators conducting their mines with union labor, that they would go out and use violence or any means whatever to obstruct, hinder or delay interstate commerce in the transportation of non-union coal? A. No, sir.

Q. Do you know of any contract, agreement or understanding of any kind or character whatsoever between the operators and the miners by which and under the terms of which the miners were to go out and destroy the means of producing non-union coal and keep it off of the markets in competition with union coal?

A. I never heard tell of any kind of an agreement like that.

Q. Mr. Dalrymple, did you know that Fred Holt had,—did you know, before the guns were shipped into the Hartford Valley by Fred Holt, that they were shipping them in there? A. No, sir.

Q. When did you first learn that they had been shipped in or that they were going to be shiped in, that you recall?

4050 Q. The first time I heard that, William McLachlan spoke to me about it.

Q. Was there any action taken by P. R. Stewart, and the Board, and if so, tell the jury what it was?

A. I was given to understand, and I also heard it stated to William McLachlan and Fred Holt, for to get those guns out of there, that Fred Holt had been supposed to have shipped in.

Q. Do you know whether they were shipped out or not?

A. Well, the only thing I can say in reply to that question is this; along about the 21st of July I happened to be in the District office and the District Secretary took me, as I remember, into the other room and showed me what was supposed to be the artillery shipped into the Hartford Valley.

Q. The guns were there, that is, he showed you a lot of guns?

A. Yes, he showed me a lot of guns that were there.

Q. That is the first time you had seen any of the guns?

A. Yes, sir, the first time and the last.

Q. At the time of this controversy between the plaintiff companies here and the miners at Prairie Creek, did John P. White, the President of the International Union, or any Board Member or Organizer, have anything to do with the lockout in the Prairie Creek mines?

A. None that I know of.

Q. Did any International Board Member have anything to do with it A. Nothing that I know of.

Q. Do you know James Mullen? You knew him in his life time, did you?

A. The International Board Member of District 21?

Q. Yes. A. Yes, sir.

Q. Were you in Kansas City on the 6th of April, 1914?

A. Yes, sir.

4051 Q. Did any of the other members of the organization gather there at that time or about that time?

A. Yes, sir, there were quite a number of them.

Q. From what states, if you remember?

A. They were from Missouri, Kansas, Arkansas and Oklahoma.

Q. Those four states? A. Yes, sir.

Q. What were you doing up there?

A. I had been requested to come up there along with Board Member McLachlan.

Q. Well, did your trip there, and the visit of these people there, and the gathering there, have anything to do with the Prairie Creek matter? A. Absolutely nothing.

Cross-Examination

By Mr. McDonough:

Q. Where do you say your home is now, Mr. Dalrymple?

A. In Coalgate, Oklahoma.

Q. How long have you lived there

A. I have lived there off and on for 27 years past.

Q. Are you now an officer of District 21?

A. I am International Board Member at the present time for District 21.

Q. Are you the successor of James Mullen?

A. No, sir, I am the successor of Gus Sparlin, who succeeded James Mullen.

Q. In April, 1914, you held a position, did you?

A. I was a District Board Member at that time.

Q. Of District 21? A. Yes, of District 21.

Q. Did you have a meeting of the Board at Kansas City on April 6th?

A. There was a meeting at Kansas City, but not of the District Executive Board.

Q. You did not have any Executive Board meeting of District 21 at that time? A. Not of District 21.

4052 Q. Did you have a meeting at any time during April of the Executive Board of District 21?

A. I could not tell you at the present time.

Q. How many members were there at that time of the Executive Board of District 21?

A. There was the President, Vice-President, Secretary; there were four District Board Members, as I remember, and an International Board Member.

Q. Making how many that constituted the Excutive Board of District 21?

A. The three residential officers and the four District Executive Board members.

Q. There were seven members of that District Board?

A. Yes, sir.

Q. One member of that board was the Organizer of the International Board Member?

A. He was separate from that I have just stated.

Q. Was he a member of the District Board?

A. No, sir.

Q. What relation did he have to the District Board?

A. Each and every district throughout the United Mine Workers has what they call an International Board Member. That International Board Member, whenever there is an International Board meeting called, he is called to attend that and to go over the various appeals.

Q. Is he a member of the District Board?

A. Absolutely not, I stated that to start with.

Q. Then the District Board was at that time composed of six members?

A. I told you it was composed of the President, the Vice-President, the Secretary and the four District Executive Board members.

Q. You mean to say it was composed of seven members?

A. Yes, sir, that is what I stated.

4053 Q. You were one of the Board Members at that time?

A. Yes, at that particular period.

Q. Who was the other?

A. Mullen was International Board Member.

Q. And McLachlan was one?

A. Yes, McLachlan was one.

Q. Was P. R. Stewart one?

A. He was the District President and naturally sat in the District Executive Board.

Q. Was Fred Holt a member?

A. He was Secretary and by his office he sat there.

Q. That was Fred Holt? A. Yes, Fred W. Holt.

Q. He lived at McAlester, Oklahoma? A. Yes.

Q. Who was the other Board Member?

A. Mike Tasso and Gus Sparlin. Sparlin was from Texas and Tasso was from Krebs, Oklahoma.

Q. Did you have any meeting of that Board in April, 1914?

A. I think there was a meeting held in Ft. Smith.

Q. What time in April, 1914, was that meeting in Ft. Smith?

A. I think that was along the latter part of the month.

Q. Where was the meeting held in Ft. Smith?

A. I think over in the Southern Hotel in the parlor.

Q. Were all of the members present?

A. I dont think they were.

Q. Was the International Organizer present?

A. I dont know who the gentleman was you referred to.

Q. Was the International Board Member present?

A. Absolutely not.

Q. Was the President of the District Board present?

A. Mr. Stewart?

Q. Yes. A. Yes, sir.

Q. Was Mr. Holt present? A. Yes, sir.

4054 Q. Now, did you have any meeting in June, 1914, of that Board?

A. Along about the 28th; the 27th and 28th I think it was.

Q. Where was that meeting held?

A. At McAlester, Oklahoma.

Q. Were all of the members of the Board there?

A. I think they were practically all there, as I remember.

Q. Did you have the minutes of the meeting held at the Southern Hotel in Ft. Smith in the latter part of April?

A. The only minutes I know of, we would take action,—the Secretary would make a note of what was done there and all of those notes and he would notify the local unions of the disposition of their disputes or grievances.

Q. I do not think you understood the question, Mr. Dalrymple.

A. I understand you thoroughly.

Q. Did you have minutes taken of the meeting at Ft. Smith, held at the Southern Hotel? I am not asking you about the custom, but did you have the minutes of that meeting? A. Taken that day?

Q. I dont know when they were taken, but were there any minutes of that meeting? A. I suppose they were.

Q. You do not know, is that what you mean?

A. I will just state this,—

Q. (interrupting). Will you kindly answer the question?

A. I will answer the question so they will all understand it.

The Court: It is not a question of whether they will all understand it or not. Answer the question asked.

A. I stated that the Secretary would take notes of the proceedings at these meetings, at these Board meetings, and he would notify the local unions or the individuals that were affected by the appeals they had before the Board.

4055 Q. Were any notes of the meeting held at Ft. Smith taken? A. They always took them.

Q. Do you remember whether they were taken of that meeting? A. Absolutely.

Q. Did you have a meeting in May anywhere?

A. I stated once before we had a meeting along about the 27th or 28th at McAlester, Oklahoma.

Q. You mean June, do you not? A. Yes.

Q. Well, I am asking you about May now?

A. I don't believe there was a meeting in May.

Q. Did you transact any meeting at your meeting in McAlester in June, the 27th and 28 of June?

A. I believe we did. We never called a Board meeting without transacting some business of some kind.

Q. It is not necessary to argue it, Mr. Dalrymple, just answer the question I now ask. Was a minute kept of those meetings? I mean the meeting held on the 27th and 28th of June?

A. There were notes taken in all of the Board meetings when the Board would be called together. There would be notes taken by the Secretary and he would notify the individuals or the local unions affected as to the decisions that might be rendered by the Executive Board.

Q. You have stated that three or four times. The question I am asking you is whether or not any minutes of that meeting or meetings at McAlester, Oklahoma, on June 27th and June 28th, were kept?

A. I said they always did that.

Q. Were they of the meeting at that time?

A. That is my understanding.

By the Court:

Q. Then why don't you say so?

4056 A. I have been trying to do that, your Honor.

The Court: If you will stop your argumentation, as the boy said, we will get along faster.

By Mr. McDonough:

Q. When was the next meeting after June 28th?

A. I could not tell you.

Q. You have no recollection of the next meeting or where it was? A. I never kept tab on them.

Q. And you have no recollection of it? A. I have not.

Q. Were you ever present at any meeting after June 28th when the minutes of that meeting were read and approved? A. We never read,—

Q. (interrupting). Answer the question, Mr. Dalrymple?

A. No, sir.

Q. In July did you have any meeting?

A. Not as I know of.

Q. Where were you during July, 1914? A. July, 1914?

Q. Yes.

A. On the 1st day of July I went out to Williams, Oklahoma, from Ft. Smith and returned. That night I asked for a layoff from President Stewart which he granted to me and I went to Hot Springs, Arkansas. I returned from Hot Springs on the night of the 19th, and arrived here in Ft. Smith and on the 20th of July I was sent out to Widowville, Oklahoma, with Board Member Tasso as there was a strike on, and went up there and put those men to work; and from there went to McAlester.

Witness excused.

4057 WILL MILLER, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. State your name? A. Will Miller.

Q. Where do you live? A. I am living in Arcoal.

Q. Are you a son-in-law of Louis Schmidt, who testified here yesterday? A. Yes, sir.

Q. Mr. Miller, were you present on the day that Coronado burned, the Coronado mine? A. Yes, sir.

Q. What were you doing? Where were you?

A. I were down at the old man's, down at my father-in-law's to give him a hand at cleaning out the well.

Q. Who called your attention to the fire?

A. Mr. Willsley.

Q. Did you go down there? A. Yes, sir.

Q. Who went with you?

A. Me and my father-in-law and Mr. Willsley and his boy.

Q. What occurred when you got down there? What did you do, if anything?

A. Well, Mr. Willsley walked over to the dirt dump down where the fire were set and came back up with a bucket, a gallon bucket, I judge, one of these molasses buckets. It had a rim around it and there was a little coal oil in it.

Q. What did he say, if anything, if you remember?

A. Which?

Q. Did he say anything, that you remember?

A. He said, "Here is the bucket, boys. It was coal oil." I taken the bucket and looked at it and there were some oil in the bucket. I took it and smelled it and there were
4058 two or three teaspoonsful.

Q. I am not asking you how much oil there was in it, but there was coal oil in the bucket? A. Yes.

Q. Did you make any effort to put the fire out?

A. I told him me and my father-in-law would help him put the fire out if he wanted us to help him put it out, and he said, "Mr. Bache will be tickled to hear it burned". It was well insured and he would be tickled to hear it burned.

Q. And you all stood back and let it go, did you?

A. Yes, we all stood back and it go.

Q. Was there any water around there anywhere?

A. Yes, sir, there was water in the pond there.

Q. Close to there, was it?

A. In 35 or 40 steps. I could not say exactly as to the number of steps, but it was about 35 or 40 steps.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. Hull:

Q. Mr. Miller, will you come down here, please, to this picture, Exhibit No. 69, and point out to the court and jury where the fire was when you got down there? (Witness leaves witness stand and goes to other end of jury box where picture is standing.)

A. You want me to show the jury where the fire was?

Q. Yes. Is this the Coronado tipple in this picture?

A. Yes, sir. Here in the elevator here (indicating). Here is the chute where the slack goes down. They wash the slack; and this is the dump; this is the chute the slack went in; the fire was set right in here (indicating), and went right up the west side of the elevator right up there
4059 (indicating). Mr. Willsley went right down over in there (indicating) and got a bucket setting right down there. I didn't go down there, but that is where he got it from.

Q. Mr. Willsley came right down the path here, did he?
A. Yes, sir.
Q. Did you come down with him? A. No, sir.
Q. Where did you go?
A. I was standing up on the top.
Q. You were standing up here (indicating)?
A. I was right up near the tipple.
Q. How far was that from this point which you have indicated? A. That is the bin where the slack was.
Q. How far away were you standing when Mr. Willsley went down to the bin? A. I guess it is 20 steps down there.
Q. Did Mr. Schmidt go down there with him?
A. No, sir.
Q. He stayed up there with you, did he?
A. Me and Mr. Schmidt and his boy stayed up here.
Q. All three of you stayed 20 steps away? A. Yes.
Q. And Mr. Willsley went around this way (indicating) and the fire was right here? A. Yes.
Q. About how high up on the tipple?
A. About four feet high.
Q. Then Mr. Willsley came back around here to where you were standing? A. Yes, sir.
Q. And showed you that bucket? A. Yes, sir.
Q. Now, you are sure of that as you are of anything you have testified to here, are you? A. Yes.
Q. That you were 20 steps away when Mr. Willsley went down and got the coal oil bucket?
A. Down here (indicating).
Q. And that would be about 20 steps?
A. Yes, sir, about that.

4060 Mr. Hull: You may now take the witness stand.

(Witness resumes the witness stand.)

Q. You did not see where he got the coal oil bucket?
A. No, I just got his word for it.
Q. And Mr. Schmidt did not see it, either? A. No, sir.
Q. So, all you know about where he got the coal oil bucket was what Mr. Willsley told you?
A. Yes, sir, what he told me.
Q. You were not standing two feet from him when he picked it up? A. Which?
Q. You were not standing within two feet of him when he picked the bucket up? A. I stated I were about 20 steps.
Q. And you did not stand two feet from Mr. Willsley, around the other side of the tipple when he stepped down into the little dugout pit and picked the bucket up, did you?

A. No, sir.

4061 Q. How high was the flames when you got there?

A. About four feet high on the elevator.

Q. You mean it started four feet? How big was the flame? A. About four feet.

Q. There was about four feet of flame?

A. Yes, it started down in the elevator, down in the hopper.

Q. How high off the ground was it?

A. About four feet high.

Q. It was four feet off of the ground? A. No.

Q. Well, how high was the flame? A. Four feet.

Q. I don't believe we understand each other. How long a flame was it? A. How high up was it?

Q. From the bottom of the flame to the top of the flame how high was the flame? A. Four feet.

Q. And the bottom of the flame was four feet off of the ground? A. No, sir.

Q. Where was the bottom of the flame?

A. Right down close to the ground, right in these timbers right here (indicating).

Q. Right in those timbers there? A. Yes, sir.

Q. Right between these two cars (indicating)?

A. Yes, sir.

Q. And just the coal oil was burning, wasn't it?

A. Yes.

Q. The timbers were not charred at all?

A. Not when we got there.

Q. The timbers were not burning at all?

A. Not when we got there, it was burning slow.

Q. Were there any buckets around there, or empty powder cans there?

A. Yes, there was powder kegs around there.

Q. Where were they?

A. Around in the wash house and engine room.

Q. You went around and saw them, did you?

A. Yes.

4062 Q. Did Mr. Schmidt go with you?

A. I could not state as to that.

Q. State what you did with reference to going into the wash house and boiler room to get cans.

A. I didn't go in to get any cans. When I stated to Mr. Willsley I would give him a hand to put this fire out and he said what he did I had no more to do with it.

Q. What did you say about seeing some powder cans?

A. There is always powder kegs and cans around there.

Q. Did you see any that day? A. Yes.

Q. Where? A. Right in the engine room.
Q. The engine room was over in this direction (indicating). A. Yes.
Q. And you saw them there? A. Yes, sir.
Q. When was that, while you were standing there, when the fire was going on?
A. I couldn't say just right then, no, but I seen them around there.
Q. That day? A. Yes.
Q. While the fire was burning? A. Yes.
Q. Where was the pond with relation to this picture?
A. The pond was right back here (indicating).
Q. Back to the east? A. Right back there.
Q. Was there any water in that pond that day?
A. Yes, sir.
Q. There was? A. Yes, sir.
Q. Now Mr. Miller, you four got together?
A. Yes, sir, we walked down there.
Q. Who got there next, if you remember?
A. Well, I just don't recollect. I believe Doc Jones and Claude Anderson as I recollect.
Q. When did they come?
4063 To my best knowledge,—I didn't look at the time—it would be in 25 or 30 minutes.
Q. You had been there about 25 or 30 minutes before anyone else came?
A. Yes, sir, that is that I noticed. Of course there might have been some standing back there that I didn't notice.
Q. Who else came later on? A. I couldn't tell you.
Q. You did not see anyone else except Claude Anderson and Doc Jones? A. Not at the time, no.
Q. A crowd gathered a little later? A. Yes.
Q. Were you there when the crowd came? A. Yes.
Q. Who was in that crowd? A. Well, Howard Shaw.
Q. Who else? A. Tom Tige.
Q. Anyone else?
A. Well, that is about all I noticed there. Of course there was a lot around there but I paid no attention to them.
Q. You did not see anyone else that you remember?
A. Why I never paid no attention to them, no.
Q. Mr. Miller, were you ever asked to make an affidavit as to who burned Coronado? A. No, sir.
Q. You never heard anything about an affidavit, did you?
A. Well, I heard some of them made once in Midland, but not me.
Q. What did you hear about that?

A. I just heard some of them made an affidavit, that is all.
Q. What did you hear about it?
A. I didn't hear anything.
Q. I thought you said you heard some of them made an affidavit? A. I did.
Q. Well, what did you hear?
A. Not a thing, I just heard some of them made an affidavit and that's all.
Q. From whom did you hear that?
A. I couldnt' tell you, I couldn't state, I couldn't tell at all.
4064 Q. Where were you when you heard it?
A. I couldn't tell you that.
Q. When was it you heard it?
A. I couldn't tell you that. It might have been when I was in the pit working or on top.
Q. It might have been in Oklahoma or Arkansas?
A. I haven't been in Oklahoma.
Q. Now, Mr. Miller, tell us what you heard about some men having made affidavits as to Coronado?
A. That is all I heard. I told you what I heard about it, that I heard some men made an affidavit about it.
Q. But you cannot tell the Court and jury where you heard it and when you heard it, and who told it, and you cannot tell what you heard? A. No, I can't.
Q. You are sure you never were asked to give an affidavit yourself? A. Of who burned Coronado?
Q. Yes. A. No, sir.
Q. And you were never asked anything about what you might testify to? A. No, sir, they never asked me.
Q. You never talked about it to labor commissioner Cleary, did you? A. I don't know him.
Q. Or to his deputy, Mr. McKinley?
A. Not that I know of.
Q. You and Louis Schmidt were the only ones there besides Mr. Willsley and his son up to 20 minutes or half an hour from the time it started to burn, is that true?
A. Yes, sir, it is true as far as I noticed. I could not say as to the minutes just exactly.
Q. Did you ever hear the names of the men who made the affidavits? A. No, sir.
Q. Do you know who made the affidavits? A. No, sir.
Q. Do you know whether Louis Schmidt made an affidavit or not?
4065 A. No, I could not say who made them.
Q. Did he ever tell you he did?

A. No, sir, he never told me.
Q. Louis Schmidt never said anything to you about an affidavit? A. No, sir.
Q. And he is your father-in-law? A. Yes, sir.

Mr. Hull: That is all.

Redirect Examination

By Mr. Covington:
Q. Mr. Miller, you made a statement to Mr. Hull the other day when he had you subpoenaed up here, and he sent you home after that?
A. Yes, I made a statement to that gentleman there (indicating). I don't recall his name.

Recross Examination

By Mr. Hull:
Q. That statement was made right out here in this room in the court house (indicating)? A. Yes, sir.
Q. And you told me practically what you have testified to on the stand here today? A. Yes, sir, I believe I did.
Q. You even described the bucket with a rim around the inside of it? A. Yes, sir.
Q. And you said it was a molasses bucket?
A. Yes, that I took it for a molasses bucket.
Q. And except for pointing out where the fire was on the tipple and where you were you told me the same story you have told on the stand here today? A. Yes, sir.
Q. And I told you to go back? A. Yes, sir.

Mr. Hull: That is all.

Mr. Covington: Stand aside.

(Witness excused.)

4066 Bob Anderson, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name? A. Bob Anderson.
Q. Where do you live, Mr. Anderson?
A. I live about half way between Midland and Huntington.
Q. What is your occupation? A. I am a miner.
Q. How long have you been engaged in the mines?
A. About sixteen years.
Q. Do you remember the day that Coronado burned, the Coronado mine was burned in July 1914?

A. I don't remember the date.
Q. Do you remember the occurrence? A. Yes, sir.
Q. Did you go down to the mine? A. Yes, sir, I did.
Q. From what place?
A. I went by the mine on my way home from Huntington, I was coming from Huntington and went by the mine.
Q. You were coming over from Huntington?
A. Yes, sir.
Q. Did you see or discover the fire as you were coming from Huntington? A. Yes.
Q. Was there any part of the tipple or of the boiler room left when you got to the mine?
A. Yes, sir, all of the tipple was there and the boiler room had not been destroyed.
Q. The tipple was on fire? A. Yes, sir.
Q. When you reached there was there anything to prevent you saving the boiler room, when you got down there?
A. No, sir, we could have saved all of the out buildings, but the tipple was under big headway.
Q. But the fire was burning down the long timbers?
4067 A. Yes, sir, down those braces.
Q. And the boiler room was not on fire? A. No, sir.
Q. Could you easily have put that out and have saved the boiler room? A. Yes, sir, we could.
Q. Why didn't you do it?
A. I offered my assistance and he said to let it go.
Q. Who did? A. Mr. Willsley.
Q. Were the other people standing there when he made that remark? A. Yes, sir.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. Hull:
Q. Who was standing there when he made that remark?
A. Well, sir, I believe,—I don't remember now exactly who they were. There were two or three of us walked up there together.
Q. Who were they?
A. I believe Howard Shaw was one of them.
Q. Who else? A. I would not be positive.
Q. Was Doc Jones there?
A. Doc Jones and I walked around there together.
Q. Was Will Miller there?
A. At the time he made this statement?
Q. Yes. A. I don't remember.
Q. Was Louis Schmidt there?

A. I don't remember whether he was there or not when Mr. Willsley made that statement.
Q. Howard Shaw and Doc Jones were there?
A. Yes, I am pretty sure they were standing right there.
Q. Is Doc Jones in the court room now?
A. Yes, sir, or he was when I got in.
Q. Were you here yesterday in the court room?
A. Yes, sir.
4068 Q. Was Doc Jones here too? A. Yes, sir.
Q. Was Will Miller here? A. Yesterday?
Q. Yes. A. Yes, sir.
Q. When was the last time you talked to counsel about what your testimony would be here? A. To the counsel?
Q. Yes. A. I haven't talked to them.
Q. You never told any of the attorneys what your testimony would be here? A. No, sir.
Q. You have not discussed with any of the attorneys for the defense in this case?
A. No, sir, they never asked me what my testimony would be.
Q. You never told Senator Covington or Mr. Grant about those timbers and how you could have saved the boiler house?
A. Yes, I spoke to Mr. Covington about that.
Q. When did you do that?
A, He was not talking to me directly when I told him that.
Q. Where was it and where were you?
A. In Mr. Covington's office.
Q. Did he have a picture of Coronado, of the Coronado tipple A. No, sir.
Q. When was this? A. Tuesday, I believe.
Q. You have not seen any of the attorneys for the defense since that time? A. Yes, sir, I have seen them.
Q. Where? A. At the court room and in town.
Q. Did you talk to them at all?
A. I have not about this.
Q. Have you talked to them at all since court adjourned yesterday afternoon? A. No, sir, I have not.
Q. You do not know then of any reason why you should not have taken the stand here yesterday afternoon?
A. No, sir.
4069 Q. When court adjourned because there were no witnesses present? A. When they adjourned?
Q. Yes, when the court adjourned westerday afternoon?
A. I don't understand, what is your question?
Q. You do not know of any reason why you should not have testified yesterday, do you?

A. No, sir, I don't know of any.
Q. Have you ever been asked to sign an affidavit in connection with that burning of Coronado? A. I have not.
Q. Then, if Louis Schmidt said you signed an affidavit, that is not true? A. No, sir.
Q. Did you ever hear anything about an affidavit?
A. Not until I heard it here in the court room.
Q. You never heard it talked about at all?
A. No, sir, I never heard it talked about.
Q. You never heard Louis Schmidt or Howard Shaw or Doc Jones say anything about this?
A. I never heard a word.
Q. And you were never asked to give your testimony before? A. About the burning?
Q. Yes. A. No, sir.
Q. Or connected with the burning of Cornoado?
A. No, sir, I was not.

(Witness excused.)

The Court: At this point we will adjourn for the noon recess until 2:00 o'clock.

4070 Thursday, November 15, 1917, 2:00 o'clock P. M.

Pursuant to adjournment as aforesaid, court reconvened Thursday November 15, 1917 at 2:00 o'clock P. M., the parties appearing as before, and the following proceedings were had:

HARRY N. TAYLOR, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Warrum:
Q. State your name to the Court and jury.
A. Harry N. Taylor.
Q. Where do you live? A. Kansas City, Missouri.
Q. What business are you engaged in?
A. Coal operator.
Q. Where are your coal mines located?
A. In Iowa, Missouri, Kansas, Arkansas, Oklahoma and Wyoming; and I have interests in Illinois.
Q. What is the name of your mining companies?
A. Central Coal & Coke Company is the principal company, and we have other companies; the Taylor Coal Company and North Central Coal Company, and the Harkless Coal Company.

Q. How long have you been engaged in operating coal mines?

A. I have been in the coal business since 1882; in my early life I did not operate, but I have been connected with the business since 1882.

Q. Have you been connected with the movement in the central competitive field, which resulted in joint conferences on wage agreement?

A. I was the signer of the original call that brought up the first interstate agreement in Chicago in 1898; the call was issued in Columbus, Ohio, in 1897, by the operat-
4071 ors of the four states, as I recollect it. Do you care for the names of the people in the call?

Q. It is not necessary to give the names.

A. The call was issued in December 1897.

Q. And called for what time?

A. We met at Chicago in January 1898, as I recollect the month.

Q. Were you a member of that conference?

A. I was a member of that conference.

Q. Do you remember any of the other members of the conference that are living, operators?

A. I went over the list in my memory the other day, and I don't believe there is an operator that signed that original call for that convention, except myself, that is alive; I cannot recollect any operator who signed the original call as now living, except myself.

Q. What joint conferences since then have you attended in the central competitive field?

A. I attended each and every conference up until 1912 of the interstate conferences of the central competitive field, and since that time I have attended the conferences in the southwest, as I left Chicago and came to Kansas City.

Q. Before 1912 did you attend any conference in the southwest district?

A. Not through the continuous scale making.

Q. But since that time you have?

A. Since that time I have.

Q. Now, Mr. Taylor, I wish you would state what if any contract, collusion, combination, agreement or understanding existed or was entered into at any of these conferences, so far as you know, between the miners, their officers or dele-
gates and representatives in those conferences, and
4072 the union operators, looking towards the interference with the production and commerce of non-union coal from West Virginia or elsewhere?

A. There never has been any collusion or understanding of any kind to my knowledge between the operators and the miners, interfering with the production of non-union coal in any district, West Virginia, or anywhere else.

Q. Was there any such understanding or agreement entered into in Chicago in 1898?

A. There was no understanding entered into in Chicago in 1898.

Q. Calling your attention to the conferences that you testified you attended in the southwest district, I wish you would testify whether there was any confederation, collusion, understanding or agreement existed in any of those conferences between the union operators or their representatives, and the representatives and officers of the United Mine Workers.

A. Since I have attended the conferences of the southwest I have never heard the matter of non-union coal discussed, and there has never been any conference on that subject, or no collusion or agreement made between the miners and operators of the southwest.

Cross-Examination

By Mr. Drinker:

Q. Mr. Taylor, you are familiar with the volumes which contain the official report of the joint conferences of miners and operators?

A. I have seen them and read them at numerous times, but not the last year or two.

Q. You know that the miners and operators did have these conferences, such as are reported in these reports, such of the ones that you attended?

4073 A. I know that the reports, as I have seen them bound up, and I suppose they are similar copies to those, of the stenographic records of those meetings which I attended, and heard the discussions at the meetings.

Q. And these reports contain all those discussions, and what was said, and what was said by both the miners and operators?

A. They do as far as I know; of course, I don't remember that they have everything, I have not checked them at all.

Q. You have seen them frequently, however, used in subsequent conferences by both miners and operators as the record of what was done before?

A. I don't know that I have seen them in that sense, but I have seen them referred to, and have referred to them myself.

Q. As a record of the previous conference?

A. Yes, sir, as a record of the previous conference.

Q. And that was done in all of these conferences from 1898 to 1912, and when there was any question come up as to what was done at a previous conference, those records were referred to?

Mr. Warrum: We object to this unless he is laying the foundation for the previous introduction of those volumes.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

A. I will say, as near as I can, in answer to your question, that for instance, if some statement had been made, probably at a previous convention by some operators or miners, and it was referred to, and exceptions taken, it might occur that they went back to the record, and looked it up on it, but I don't think as a regular practice they made a practice
4074 of using those records except to clear up a disputed statement from time to time, and I do remember occasions when such things did occur, but I don't think it was a practice.

Q. It was a custom, was it not, whenever the occasion arose, for either the miner or operator to refer to the previous debates, in connection with previous contracts, as throwing light on that contract?

A. I should say not; there was a good deal of hot air at those conferences, and nobody really cared what they said as a rule, but if there had been some specific statement made, which was afterwards denied, the record was often referred to, but not as the [pracitce] or custom.

Q. Now, at these conferences, was it not a fact that the operators were continually referring to the eighth clauses of the Chicago Agreement as imposing on the miners an obligation, to protect them against the competition of non-union fields, particularly West Virginia?

A. I cannot say from memory that they referred to any particular clause, but I know often times it was kind of a horse trading proposition, when we didn't want to advance their wages, when they were asking for an advance, we would advance the argument that they would have to bring West Virginia up in line before they could ask for an advance, and we used all of the argument that we could to keep from paying an advance, and that was one of the best arguments that we had.

Q. You remember the clause, the eighth clause, reading "That the United Mine Workers' organization, a party to

this contract, do hereby further agree to afford all possible protection to the trade and to the other parties hereto against any unfair competition resulting from a failure to maintain scale rates"?

4075 A. Failure to maintain scale rates?

Q. Yes.

A. I can't say the number of the clause, but I remember that.

Q. And you remember it was frequently discussed in the subsequent meetings, by both the miners and operators?

A. Yes, sir, I do in this way,—may I be permitted to make an explanation?

Q. Certainly, explain all you want to, relevant to this.

A. And I must explain it if you want my answer; it is a little hard thing to say. In 1897, we had been through a long and an enormously costly struggle, and the coal operators were on the verge of bankruptcy, and the miners were practically starving in many districts; and in Illinois where I was particularly interested, there had been seven months I think, of suspension of work, and there was no organization of the operators or miners in Illinois at that time. The Northern Illinois field, Grundy and Drury Counties had an organization of miners. and there was a little organization around Danville, Illinois, and other than that it was free for all, both miners and operators, and might made right. The thing had been so abused, the [priviledges] on both sides, that the [inevietable] conflict occurred, and after they had been idle for months and months, until bankruptcy overtook the operators, and starvation the miners, they got together in a conference, and the result of that conference was a meeting called in Columbus, Ohio, at which the representatives from Pennsylvania, the Western part of Pennsylvania, Ohio, Indiana and part of Illinois were present. After a discussion there, it was agreed that it was far more sensible for men to meet and discuss these wage problems and the competitive conditions than to strike six or eight months until

4076 everybody was starved out financially and physically, and then meet and agree, when everybody was in a bad humor and angry mood. And we agreed, beginning with that time, to turn over a new leaf, and call a conference, and discuss our matters jointly, and allow all the operators to have a voice in what his competition would be, and allow all the miners to have a voice in what they would get, and the work would go into its natural channel, and the men get the work that belonged to their district, and the operators sell the coal that belonged to their district. It was with that

theory in mind that that conference was called, which is now known as the Interstate Agreement, by which the miners, the employer and employee, would counsel together, and arrange basic rates. Now, the Hockin Valley was the basing point in Ohio, but there were four or five other districts in Ohio; the Western Pennsylvania was the basing point in Pennsylvania, but there were several other points in Pennsylvania. Indiana was one district, except the Indiana Block, which was a separate district on account of the nature of the coal. Danville was made the basing point in Illinois. In order to bring about protection for other operators who saw the wisdom of counseling first, rather than fighting first, and then counseling, they asked the miners if they would join with them in a general plan as a humanitarian and business-like proposition, that they would protect them if they failed through argument and reasoning, to bring the operators in their own district into such an agreement. When we first started in 1898, although every state was represented by certain representation of each state, we did not have all of the operators in the states in accord with the other operators in this movement. In the State of Illinois, which has nine districts, we [seggregated] the state into nine districts,
4077 based on the thickness of the coal, the freight rates, and the mining scale, and after we agreed on an interstate agreement in Chicago, a meeting was called in Springfield, Illinois, for the state of Illinois, and there the competitive rates were discussed, and many men in the State of Illinois, although they did not come into the association until after the state meeting was held, did come in then and the second year more came in, and after that plan was worked out, and it was demonstrated that the human plan was the best plan, more operators came in, and as I recollect it, that eighth clause was enacted to protect the operators in their own state. Those that had wisdom to see that it could be better done by argument and discussion first as against those that still thought that might made right was the proper course, and I am glad to say, that after a number of years practically all of the operators saw the human side of it, and came into this interstate agreement. But it took several years to work that out from the chaotic condition that existed in 1897.

Q. When you got together in 1898, previous to that, you had been fighting among yourselves, and had ruinous competition among yourselves, that forced the price of coal down to where you could not live, and you were all bankrupt, and the miners had competition among themselves, forcing wages

way down, and you decided to get together and eliminate some of that cut-throat proposition by means of this agreement?

A. Before the agreement was made in 1898, back in 1886, I attended a conference in Columbus, Ohio, which was then known as an interstate conference, but it was only fragmentary; there were only certain little districts participated in that agreement. John McBride at that time was the
4078 head of the miners, and on account of that being only fragments of states, it fell apart, it did not have strength to maintain itself.

Q. I think we are going a little far back, and I want you to get around to the question.

A. All right, I meant to bring that about. It fell apart, and there was no organization between operators and miners, or no understanding between the operators themselves or the miners themselves, and every man that could get a contract would go to his men and ask them to take less wages, so that he could sell his coal, and if they didn't agree to take it they would try to freeze them into it, and if the miners thought they could get more money than they were offering, they struck, and that condition was starving the miners and breaking up the operators, until these men thought that the only sensible human plan and business-like plan was to do our arguing first, and fighting afterwards, if it was necessary to fight, and for many years, we avoided that system of starvation and bankruptcy, by these trade agreements, and we bettered the condition of the men employed in the mines, and bettered the business-like and financial condition of the operators.

Q. Now as a result of that in 1898, and as it continued later, the miners wages were considerably increased?

A. Yes, sir, considerably increased, and the conditions of employment were even bettered.

Q. And in spite of that the operators were enabled to get enough for their coal to pay the increased wages and still make a living?

A. By having these discussions or trade agreements, the coal found its more natural market.

Q. And they would get more money for it?

A. They got enough more money for it in its natural
4079 market, rather than its forced market, so that they could pay more wages, and give the men better living conditions.

Q. And at the same time there were other operators and miners who were in competition with them in the arrangement, and who did not come in, and were still trading on a lower cost?

A. There were; and they were still battling and fighting with each other, on the old method.

Q. What way did the miners, what were they to do, in order to protect the operators in the central competitive field?

A. To have the miners take the same scale rate from other operators as was paid in the other fields.

Q. In other words, the miners would organize other fields, and get the operators to come up to that scale?

A. They were to organize and come up to it or stop taking premiums. In many cases, the operators would lay idle all summer, and in the fall would pay a premium to the miners, and in that way steal the men away for a few months from the operators that paid the scale all of the whole year, all the way through, and the miners pledged themselves that all of their members would not take these premiums, but would take the scale rate, and would not work for operators that were coming in for a month or two in the fall, and taking the men from the mines that run twelve months in the year. That was one of the things.

Q. Now, before the fall of 1912, as I understand, the arrangement between the operators and miners in the central competitive field, was that the miners, if they did not get an agreement by the first of April, there would be a suspension, and that would last several weeks, but as I understand it, in 1912, they eliminated the suspension, and worked pending the arrangement. Now, did the operators, to your recollection, ever favor, or try to bring about these suspen-
4080 sions, on the first of April, prior to 1912?

A. They did prior to 1912, but it was so far before that. It was prior to 1898. In 1898, before this arrangement was made, the operators in Ohio, who shipped their coal in the summer months to Duluth, and West Superior, and the stocking points on the Great Lakes, if they had a light winter and had not moved all of the coal out of stock on those docks, that action called for a suspension, which occurred until the coal would be moved, but with the making of the agreement in 1898, that class of ruinous competition was eliminated.

Q. Then after 1898, the operators were glad to avoid a suspension?

A. 1898 every effort was made to keep the mines in as continuous operation as possible.

Q. By the operators?

A. By the operators and miners.

Q. If there was a suspension on April 1st, pending an agreement, was it at the instigation of the operators?

A. No, sir, it was simply the elimination of the contract; I cannot name the exact years, but on one or two occasions, the process of making the new contract was dragged along so the old contract expired before the new one was made.

Q. The operators did not deliberately drag it along?

A. No, they could not agree.

Q. Was not the real reason that they stopped that practice and made the things run along, that both the operators and miners realized that the coal from West Virginia, and other competitive fields, would come in and take the market away, and their market was gone?

A. No, sir, that was not the real reason, because I
4081 stated early in my testimony that we applied reason and common sense.

Q. I don't mean in 1898, I am talking about 1912.

A. And I am talking about 1912. We kept learning as we went on, and we found from time to time the weak points in our agreement, and corrected them as we could, by mutual consent.

Q. You did find in previous years, when you made the suspensions, that the West Virginia people were happy about it, and were coming in and taking your market away?

A. I never talked to West Virginia people, and don't know whether they were happy or not, but I know that we lost money every time the mines were suspended.

Q. And you found when you got through, that part of your market was taken away from you?

A. I will say for your information, that in the part of the country that I operate, West Virginia don't cut any figure whatever.

Q. What field does Illinois compete with?

A. In the west with,—Illinois really competes with everything west of Illinois, Iowa and the southwest.

Mr. Drinker: That is all.

Redirect Examination

By Mr. Warrum:

Q. Now, you have said something about these debates containing a great deal of hot air. They usually opened the joint conference by a statement of the miners' demands, did they not? A. That was the general form of opening.

Q. And then the operators sometimes would respond with the operators proposition?

A. The operators would oftentimes put in a counter-demand.

Q. Then these debates would last, and cover a long
4082 period of time?

A. In the early days of this joint movement, they used to have big conventions, at which there would be several thousand miners and operators present, and we had some operators and some miners too, that wanted the people on both sides to know what they knew about the coal business.

Q. And the conference concluded with some contract, when they agreed on anything, it was a written contract?

A. After the speech making of the first day or two the conference was concluded, they would sub the committee down to a scale committee, representing the miners and the operators jointly, and those committees would retire from the general conference, and there was no record kept of their action, or their meeting, they didn't keep a stenographer in there, because they determined, if a record was kept of every word said, that they would not reach an agreement, because neither side would talk as freely as they would without it, and the real work of these conferences was done in the scale committee, and these records that have been put in here are absolutely of no conferences whatever, because that was the open talk, and as I said, hot air, and the real work was done in the conference committee of the scale committee.

Q. Now, what would the conference committee do in regard to referring it back, an agreeemnt?

A. When they finally reached an agreement in the scale committee, they would bring it back to the general conference, or to the convention for ratification.

Q. Was that reported in the form of a joint scale agreement for that ensuing two years?

A. Yes, sir, and that would go into this record, but when I say that, that is all, and the talk there had nothing
4083 to do with the making of the agreement.

Q. Now after that agreement was made, what if anything, was done before it became binding, with reference to referring it back to the annual convention of the miners of the United Mine Workers or after 1912 to a referendum vote of the miners.

A. The miners convention was generally held prior to the joint conference, and the miners would appoint their scale committee, and map out the policy they desired to fol-

low, before they met the operators, and after they met the operators, and the joint scale committee, and they reached an agreement, that became the agreement, and then each side went back home, and made its detailed agreement at home, among its own operators and miners, as to the details in each district.

Q. Do you recall, Mr. Taylor, whether or not before 1912, the convention of the miners would re-convene for the purpose of ratifying or approving this agreement, and whether or not since 1912 it has been referred back to a referendum vote of the miners?

A. My recollection is that in all the early conferences, the convention being in session, ratified the agreement, but in later days, in the light of economy, instead of keeping several thousand men idle for a week or two in a strange city, they simply meet as a committee and then send the agreement back for a referendum vote, rather than keeping the convention in session.

Q. Was there any years during which there was no agreement consummated at all?

A. My recollection is that it was the year 1908, that the conference broke up without reaching an agreement, and that the agreement was made by states, I am not quite certain that was the date.

4084 Q. There was one period?

A. Yes, sir, when they did that.

Q. How long did that last, before the interstate movemen was re-convened?

A. The interstate movement was disorganized, or broken up as an interstate movement until the year 1912, and Mr. White came out and met me in Missouri, at Higbee, Missouri, and I was at that time President of the Illinois Coal Operators Association, and asked me if I would join him in an effort to re-establish the interstate movement, and I told him I had always been a believer in the common sense method of trade agreement, and that I would be glad to help him, and I called a meeting in Chicago of the operators of the same states that had formerly met, and at that conference we agreed with Mr. White that there would be a new call issued for an interstate movement, and the interstate movement was ratified in 1912, and the settlement in Cleveland, Ohio, of 1912 was the last conference that I attended as an interstate meeting, because after that, the next conference, I was in the southwest, and no longer president of the Illinois Operators.

4085 Q. Did you ever hear it stated in the convention or proceedings by the miners in reply to any position

taken by the operators in regard to their objection to increase of the wage scale on account of the West Virginia competition that there were operators in that conference operating non-union mines in West Virginia?

A. In the early days of the conference, as I stated early in my testimony, we used West Virginia as a bugaboo in our effort to keep from paying any advance in the wages, and it was not a great many years until many of the operators, among them the company I was connected with, purchased interests in West Virginia. Two-thirds of them had interests in West Virginia. And the miners finally took the position, "If you gentlemen will bring your West Virginia mines in here and quit talking about it, we won't have any trouble", and I know there were several operators, among them the Sunday Company and the Pittsburgh Company, who were operating in Pennsylvania and Ohio, and who were also operating in West Virginia, W. P. Rend and others; and the operators had to back down from their argument because they had to come in with their West Virginia mines or shut up.

Recross Examination

By Mr. Drinker:

Q. When you say two-thirds, is that a conservative estimate? A. Of what?

Q. Two-thirds of the operators in the joint conference?

A. Oh, no, I meant of our little sub-committee, not the big convention, but the men in the inner councils around the table.

Q. I thought that was a little strong, Mr. Taylor.

A. I want to emphatically correct that if I said it. I meant the men around the table, the men that went in-
4086 to the inner conference. There was W. P. Rend and J. S. Morton and Mr. Robbins, who were the leaders in the sub-committees. Those conventions were generally subbed down to one or two men from each state, and two-thirds of them held interests in West Virginia.

Q. And how many of them, Mr. Taylor, had mines in West Virginia? A. Not many, only the principal ones.

Q. The very big companies had subsidiaries in West Virginia?

A. Yes, the very big companies, and they were the men on the sub-committees of the scale. I am glad you called my attention to that. The men I referred to were the men around the table in those sub-committees.

Mr. Drinker: That is all.

(Witness excused.)

4087 W. D. RYAN, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Warrum:

Q. State your name to the court and jury.

A. W. D. Ryan.

Q. Where do you live, Mr. Ryan?

A. At Kansas City, Missouri.

Q. How long have you lived there? A. Eight years.

Q. Where did you live before that time?

A. At Springfield, Illinois.

Q. What if any official position under the Government of the United States do you hold now, if any?

A. I am Safety Commissioner of the United States Bureau of Mines at the present time.

Q. How long have you held that position, Mr. Ryan?

A. About four years.

Q. What was your occupation before that?

A. For the five years from 1909 up until the time I took the position with the Bureau I was Commissioner for the Southwestern Interstate Coal Operators' Association.

Q. Before that time were you connected with the United Mine Workers of America in any of the district organizations, or the International organization?

A. I was about 12 years Secretary-Treasurer of the Illinois branch of the United Mine Workers and one year International Secretary.

Q. One year you were International Secretary? A. Yes.

Q. And about 12 years you were connected with the Illinois District, is that right? A. Yes, sir.

4088 Q. Were you a miner by occupation? A. Yes, sir.

Q. Were you a member of the interstate conference held in the central competitive field at Chicago in 1898?

A. Yes, sir.

Q. What district did you represent?

A. I was Secretary-Treasurer at that time of the Illinois Mine Workers and a delegate to that convention.

Q. Now, what conferences in the central competitive field, joint scale conferences, have you attended since then?

A. All of them up to and including 1908.

Q. As a representative of the Southwestern Interstate Coal Operators' Association, have you attended any of the conferences in the Southwest District?

A. All of them from 1910 to 1912. There was two when I was with them when they made a joint contract.

Q. That interstate conference includes three districts, as I understand it, the district of Kansas, the district of Missouri and the district of Arkansas, Oklahoma and Texas?

A. Yes, sir.

Q. I wish you would state whether or not there existed any agreement, understand, and combination or collusion between the union operators or their representatives and the United Mine Workers of America and their officials or delegate representatives, at any or all of these joint conferences, looking to the interference with the production and commerce in non-union coal? A. Not that I know of.

Mr. Warrum: Take the witness.

Mr. Drinker: No questions.

Witness excused.

4089 GEORGE WESTWOOD, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Warrum:

Q. State your name to the court and jury.

A. George Westwood.

Q. Where do you live, Mr. Westwood? A. At Hartford.

Q. Are you a miner? A. Yes, sir.

Q. A member of the union? A. Yes, sir.

Q. Were you a miner in 1914? A. Yes, sir.

Q. Working at what mine? A. At the Hoffman mine.

Q. Are you a man of family, Mr. Westwood?

A. Yes, sir.

Q. And how old are you? A. 54 years old.

Q. How long did you live in that neighborhood?

A. In Hartford?

Q. Yes. A. Since the spring of 1911.

Q. How long have you mined coal?

A. I went in the mines when I was about 12 years old.

Q. Is the Hoffman mine in the group known as the Prairie Creek district? A. Yes, sir.

Q. Did you know James Mullen? A. Yes, sir.

Q. He was an International Board Member in 1914, I believe? A. Yes, sir.

Q. And lived in Midland? A. Yes, sir.

Q. And he is now dead? A. Yes, sir.

Q. Did you meet James Mullen the last of April in Hartford? A. I did.

Q. Do you know what date that was?
A. I think it was about the 30th of April or the 1st of May.
4090 Q. The 30th of April or the 1st of May?
A. Yes, sir.
Q. Did you have any arrangement or conversation with him, I will not ask you about the conversation, but did you have any understanding with him with reference to any future meeting you were to have with him on matters you were submitting for his consideration?
A. I did have a date for a future meeting.
Q. State briefly what that matter was?
A. I was inquiring from him in regard to the International constitution.
Q. Speak louder, Mr. Westwood?
A. I inquired from him for the interpretation of the National constitution.
Q. In regard to what?
A. In regard to the employment of men from other states.
Q. What did he say? Did he give you an interpretation?
A. He told me he did not know whether that matter had ever been before the "National", that he would inquire into it.
Q. Did you have any arrangement with him to see him later? A. I did.
Q. When did you see him?
A. I saw him on the 16th of May.
Q. What position did you occupy at that time with reference to any committees of the local? Were you on the pit committee?
A. I was on the pit committee of the Hoffman mine.
Q. Is that one of the duties of the members of the pit committee, to settle questions of that character?
A. To settle disputes between the mine foreman and the miners.
Q. Now, did you see him on May 16th? A. I did.
Q. Where did he come from, if you know?
A. Well, he drove up to the mine. He had a rig. I don't know where he came from.
Q. He drove up to the Hoffman mine, did he?
A. Yes, sir.
4091 Q. Did you make any memorandum of that at the time? A. Yes.
Q. Have you that memorandum with you?
A. Yes, sir.
Q. Produce it, please. A. Here it is.

Q. What was your purpose in making a memorandum of that day?

A. For the purpose of keeping a record of the amount of time I had lost so that the local union would reimburse me.

Q. Did you keep an item of the time you spent with him?

A. Yes, sir.

Q. You say that was may 16th? A. Yes, sir.

Q. And what was the business that he was meeting you on, on May 16th? A. The International constitution.

Q. With relation to this matter you have just testified about? A. Yes, sir.

Q. Did you see him later? A. I did.

Q. On what date? A. I saw him on the 5th of July.

Q. Where did you see him on the 5th of July?

A. At my home.

Q. Did you at the time make a memorandum of that meeting? A. I did, yes, sir.

Q. What was that memorandum made for at that time?

A. That was for an agreement between me and the other committeemen, that it was necessary for us to inquire from someone in regard to our position as committeemen having expired. Our term had expired and there was unfinished business on hand, and the new committee did not care to take hold of it and I wanted to let go and I wanted to find out where I stood.

Q. You were on the old committee? A. Yes, sir.

Q. And they were asking that the old committee transact this business? A. Yes.

4092 Q. And you were insisting that the new committee transact the business?

A. Yes, sir, I did, I wanted to get out.

Q. Was that the subject matter of the meeting that you had with Mr. Mullen on that date? A. Yes, sir.

Q. How did he happen to come to your house, Mr. Westwood?

A. I expected Mr. Mullen to be at home that morning, on the 4th of July. This matter came up about the first, and I wrote him I wanted to meet him when he came home, and he answered the letter in person.

Q. Do you remember what day of the week that was?

A. I think it was Sunday.

Q. And you were home, were you? A. Yes, sir.

Mr. Warrum: That is all.

Cross-Examination

By Mr. McDonough:

Q. I did not get your first statement, Mr. Westwood. You had a conference with Mr. Mullen, you say? A. Yes, sir.

Q. Did you state the subject of that conference, the first one? A. You mean when I met him on the first occasion?

Q. Yes.

A. I asked him for information with regard to the National constitution and he was not able to give it to me at that particular time, but agreed to give it to me at a later date.

Q. Where was that?

A. In Hartford. I happened to meet him in town.

Q. Were you a member of the union at that time?

A. Yes, sir.

Q. And an officer in the union?

A. I was pit committeeman.

Q. In the local? A. Yes.

Q. You were a member of the pit committee? A. Yes.

4093 Q. And the subject of the inquiry related to your duties as a pit committeeman? A. Yes, sir.

Q. Did you discuss that with the International Executive Board Member? Did you discuss that with him?

A. I did.

Q. The man you knew to be the International Executive Board Member? A. Yes, sir.

Q. And that was James Mullen?

A. Yes, I discussed the International constitution with him.

Q. What date did you say that was you first met him?

A. It was either the 30th of April or the 1st of May.

Q. Either the 30th of April or the 1st of May, 1914?

A. Yes, sir.

Q. And you say you made a memorandum of that at the time? A. No, sir, I just met him accidentally.

Q. How do you remember that was the time?

A. Because, at that particular time the Cleary investigation was going on and I was on my way up town to it, and that is the reason I remember it.

Q. Was Mr. Cleary there that day? A. In Hartford?

Q. Yes, on the day you met James Mullen, was Mr. Cleary there? A. He was there either that day or the day after.

Q. Was Mr. Cleary there on the day Mr. Mullen was there? I mean, were they both in town on the same day?

A. They probably were.

Q. Did you see Mr. Mullen at the Cleary hearing?

A. No, sir.
Q. How did Mr. Mullen get over there?
A. He was in town when I met him. He may have came in a train or drove, I don't know.
Q. You knew at that time where he lived?
A. Yes, sir. I have known where he lived for the
4094 last ten years.
Q. About how far from Hartford did he live at that time? A. Between five and six miles.
Q. Where were you, at what place, at what store or house or place of business were you when you discussed the matter with him? A. I met him on the street.
Q. Where?
A. I met him on the street. It was in the summer time.
Q. How long did he stay there at that time?
A. He was with me for probably an hour or an hour and a half.
Q. Where did he go then? A. I don't know.
Q. That was after the riot at Prairie Creek?
A. After the 6th of April?
Q. Yes. A. Yes.
Q. You remember about that riot? A. Yes.
Q. And this time you saw Mr. Mullen there was after that? A. Yes, sir.
Q. You are certain of that? A. Yes, sir.
Q. When was it you next saw him, as you testified a while ago in your direct examination?
A. I met him by appointment on the 16th of May.
Q. At what place? A. At the Hoffman mine.
Q. At the Hoffman mine? A. Yes.
Q. And did you have an extended conversation with him that day, and did you talk to him very long?
A. We had considerable talk.
Q. How long did he stay at Hartford at that time?
A. I don't know whether he went to Hartford or not.
Q. Did he go in the direction of Hartford when he left the Hoffman mine?
A. When he left the Hoffman mine he took the road,
4095 and the road branched off from Midland to Hartford, and that was beyond my vision.
Q. So you do not know whether he went to Hartford or Midland?
A. No, sir.
Q. And you do not know whether he came from Hartford or Midland? A. No, sir.
Q. Was he in a buggy? A. Yes.

Q. Was anyone with him? A. No.
Q. He came there especially to see you, did he?
A. Yes, we had arranged to meet.
Q. Did you come to Ft. Smith two days afterward to the convention at Ft. Smith?
A. I did not attend any convention for the last ten years.
Q. You were not in Ft. Smith on May 18th? A. No, sir.
Q. Or on May 20th? A. No, sir.
Q. And you do not know whether Mr. Mullens was here or not?
A. No, sir, I don't.
Q. Did you see James Mullens after May 16th?
A. Yes, sir.
Q. And did you make a memorandum of that meeting at the time?
A. Yes, sir, I was attending to union business.
Q. How long was it after that that you saw him?
A. The next time?
Q. Yes, how long after May 16th? A. The 5th of July.
Q. Of the same year? A. Yes.
Q. Where did you see him then? A. At my home.
Q. In Hartford? A. In the east end of Hartford.
Q. What time in the day was it then you saw him?
A. In the afternoon.
Q. Did you have much of a conference with him? Did it last long?
A. The business we had to transact did not last long,
4096 but he told me about the latest stories from the East.
Q. I am not asking you what was said, but whether you had a very lengthy conference with him?
A. We were together about an hour probably.
Q. What time in the day was it? A. In the afternoon.
Q. About what time in the afternoon?
A. I am not positive just what time it was.
Q. Did he come to your house in a buggy? A. Yes, sir.
Q. Was there anybody with him? A. No.
Q. Did he go in the direction of his home when he left Hartford? A. Yes, he went around that way.
Q. When did you next see him?
A. The next time I saw him I met him on the Rock Island train coming east from McAlester.
Q. When was that?
A. I was coming up to Fort Smith some time in December.
Q. Did you make a note of that meeting?
A. No, sir, because that was an accidental meeting, I made no note of it.

Q. Passing to the meeting of the 5th of July, did you make a note of that, a memorandum of that meeting? A. Yes.
Q. And the next time you saw him you think was on the train coming from McAlester to Arkansas? A. Yes.
Q. And that was some time in December? A. I think so.
Q. You did not see him in July after July 5th?
A. Not that I have any recollection of.
Q. And you did not see him in August?
A. Not that I can recollect.
Q. Or in September or October?
A. I may have passed him and did not pay any attention to him.
Q. When you met him on the train, did you make a memorandum of that meeting?
A. No, sir, we just happened to meet and we sat down
4097 and rode together as far as we were going together.
Q. You say you may have seen him between July 5th and December, but you do not remember?
A. I did not have any business with him and I don't recall.
Q. You do not know where he was from July 5th to July 17th?
A. No, sir; I don't.
Q. And you do not know where he was on July 17th?
A. No, sir, I don't.
Q. And the remainder of the month of July you do not know where he was? A. No, sir.

Mr. McDonough: That is all.

Redirect Examination

By Mr. Warrum:
Q. Was Mr. Mullen an old man?
A. Yes, I considered him considerably older than I am.

By Mr. McDonough:
Q. And what is your age? A. 54.
Q. Mr. Mullen knew you were a union miner, did he?
A. Yes, sir, of course he did.

Witness excused.

4098 HARRY BOUSFIELD, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. Harry Bousfield.
Q. Where do you live? A. At Lansing, Kansas.

Q. What is your business?
A. At the present time do you mean?
Q. Yes.
A. I am working for the state, at a state institution, a penal institution.
Q. In what capacity? A. Sir?
Q. In what capacity?
A. I am one of the officers there at the penitentiary.
Q. Have you ever been a coal miner?
A. Yes, sir, since I was 9 years old, except for the last few years.
Q. In what states have you dug coal?
A. I have mined coal in Pennsylvania, Ohio, West Virginia, Alabama, Kentucky, Maryland and Kansas, and I might also state that I have mined coal in England.
Q. During these years did you attend any of the conferences held between the miners and operators in which they sought to reach an agreement? A. Yes, sir.
Q. In what years?
A. I have attended in 1903, 1904 and 1906 of the Southwestern conferences between the operators and miners, and a part of the conference in 1908.
Q. At either of these conferences was there any contract or agreement or understanding between the miners and operators by which the miners were, in consideration of the operators conducting their mines with union labor, to commit acts of violence, lawlessness, and commit murder and arson,
4099 to keep down the production of non-union coal and prevent from it coming in competition with coal produced by union mines? A. Not any.
Q. Was there any agreement, contract or [understand] of any kind or character between the miners and operators at either of these conferences by which interstate commerce in non-union coal was to be interfered with at all?
A. None whatever.

Mr. Covington: Take the witness.

Mr. Drinker: No questions.

Witness excused.

4100 HARRY MCGOVERN, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. Harry McGovern.

Q. Where do you live? A. At Alix, Arkansas.
Q. Are you a coal miner? A. Yes, sir.
Q. Where did you live in the summer of 1914?
A. At Frogtown, Arkansas, over here in Sebastian County.
Q. Did you assist in gathering up any guns in Hartford Valley in July, 1914, or June of that year? A. Yes, sir.
Q. At whose instance? A. Fred Holt.
Q. What did you do with them?
A. I loaded them up and carried them to Hartford and took them down to Oscar Layton's house and helped him pack them up to ship them.
Q. Did you ship them back to McAlester? To McAlester?
A. Yes, sir.
Q. About how many guns did you gather up?
A. To the best of my recollection there was somewhere in the neighborhood of between 30 and 35.
Q. 30 or 35? A. Yes, sir.
Q. You say Oscar Layton had some in his house? A. Yes.
Q. Had the boxes been torn open and unpacked?
A. No, sir, what I saw was not.
Q. Were they boxed? A. Yes, sir.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:

Q. Mr. McGovern, I understood you to say you lived
4101 in Frogtown? A. Yes, sir.
Q. Were you living there in July, 1914? A. Yes, sir.
Q. Did you gather up these guns in July?
A. Along about the last of June or the first of July, I would be positive which, along about the 1st of the month some time.
Q. Have you any means of fixing the date that you gathered them up?
A. Not any more than the 4th of July. It was prior to the 4th of July. I remember the 4th of July came right after the guns were gathered up; and it was shortly before that. It must have been right at the last of June or the first of July.
Q. Didn't you keep a memorandum?
A. I did at that time, I had a memorandum at that time.
Q. Where is it?
A. Well, unfortunately I got crippled over here in Oklahoma about two years ago,—
Q. I am asking you, Mr. McGovern, where the memorandum is?
A. I am trying to tell you what became of it. At the time I was crippled I was taken to Fort Smith to the hospital and

the people I was stopping with there moved away and my clothes were taken away with them and I lost them.

Q. Were you paid by the union for that work?

A. No, sir.

Q. Were you paid by Fred Holt? A. No, sir.

Q. You never were paid anything for it?

A. No, sir, I never received a penny for it.

Q. I will ask you if you were in Fort Smith at the hearing, —at the first hearing on the contempt proceedings, and heard the testimony of Hayden of McAlester and the express agent of McAlester in regard to the shipment of the guns, and stating it was after that the guns were shipped back?

4102 A. What time was that hearing at Fort Smith?

Q. I am asking you if you don't remember?

A. No, sir.

Q. You were not here? A. No.

Q. And were not called as a witness? A. No, sir.

Q. And you do not know whether it was before or after the first contempt proceedings at Fort Smith when the information was given out by Hayden and the express agent that the guns were shipped there by Holt?

A. I have no recollection of the contempt proceedings that were had at Fort Smith. I remember the time the guns were gathered up, but I have no recollection of the hearing at Fort Smith.

Q. So you don't know whether the guns were gathered up by you before or after the hearing at Fort Smith?

A. I can't say, because I don't know the date of the hearing.

Q. Did you get knowledge of the fact that that information had come out in the hearing at Fort Smith?

A. No, sir; I didn't.

Q. Now, where were you on the 17th of July, 1914?

A. Part of the day I was in Hartford and part of the day I was in Frogtown.

Q. What part of the day were you at Frogtown?

A. I was in Frogtown in the middle part of the day. In the morning I was in Hartford and in the afternoon I was in Hartford.

Q. About what hour did you go to Frogtown?

A. In the morning?

Q. Yes.

A. I judge somewhere before dinner. The exact time I don't know. It was shortly before dinner.

Q. Did you stay at home the night before? A. Yes.

Q. Had you gone over to Hartford that morning?

A. Yes, after breakfast, I usually went over to Hartford.

4103 Q. Did you take a gun with you?

A. No, sir.

Q. Did you have a gun coming back to Hartford from Frogtown? A. No, sir.

Q. Were you at Prairie Creek that day?

A. No, sir, not at the mine.

Q. Did you hear any shots fired around there?

A. I did.

Q. Did you see any of the men doing the firing?

A. No, sir.

Q. Did you see any men around there with guns at all?

A. I can't say whether I did or not.

Q. Did you see any union miners out there that day?

A. There was union miners living all around there.

Q. Did you see any around there?

A. Yes, I talked to several.

Q. Did you see any with guns?

A. Well, I can't say that I did.

Q. Can you say that you did not?

A. Yes, the people around my home did not have any guns.

Q. That is not what I asked you. I asked you if you can say you did not see any men with guns?

A. Let me see; no, sir, I didn't.

Q. Was there anything happened to those mines that day?

A. That evening about six o'clock they were destroyed,—some time that day,—they were destroyed that evening about six o'clock.

Q. You mean they were destroyed about six o'clock?

A. I mean they were burned when I saw them there, but what time they were burned I don't know.

Q. Did you go up by the little log cabin up on the hillside? A. No, sir.

4104 You don't know anything about that?

A. No, I didn't know there was a cabin there.

Q. You did not know anything about men being murdered up there?

A. I heard it rumored, but the fact I didn't know.

Q. Did you stay at home that night or go back to Hartford? A. I stayed at home.

Q. What were you doing over in Hartford?

A. I was not working and I usually put in my time there.

Q. Did you work at No. 4?

A. Not then, I did years ago.
Q. What mine were you working at ?
A. Mammoth Vein; at that time I was not working at the Mammoth Vein. Prior to the time it shut down I was working there. At that time in July I was working for the Woodson Coal Company.
Q. Had you been receiving strike benefits from the union?
A. No, sir.
Q. Did you receive any at all? A. No, sir.
Q. Do you know how many guns you carried to Hartford? A. Somewhere between 30 and 35.
Q. Did you pack them up yourself?
A. I helped Oscar Layton pack them.
Q. From whom did you get the guns?
A. From those miners down there.
Q. Name them?
A. That would be a hard matter, to name them right now.
Q. Name all you can? A. Well, I couldn't do that.
Q. Where is the list?
A. I told you a few minutes ago that my clothes were taken away with the people I had been staying with, and the list was in those clothes.
Q. [You] gave you the list? A. John Mastell.
Q. Mastell was in business there? A. Yes.
4105 Q. You got the list from him? A. Yes.
Q. Who sent you to Mastell?
A. Who sent me to Mastell?
Q. Yes?
A. I don't know in particular that anyone did. I went down to Mastell's store and stated my business and he said he had a list of the guns and I told him to give it to me and Mr. Hunter helped me to gather them up.
Q. Did Oscar Layton tell you to go to Mastell's?
A. No.
Q. Did Fred Holt tell you to go there?
A. I don't think he did, but I would not be positive about that.
Q. Did you know a Mr. Thomas, a coal miner over at Hartford? A. Who?
Q. S. C. Thomas? A. I don't think I did.
Q. A man that moved from Hartford over near McCurtain, Oklahoma, sometime after the trouble?
A. No, sir, I don't believe I knew him.

Witness Excused.

4106 JAMES DUNN, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. What is your name? A. James Dunn.
Q. Where do you live, Mr. Dunn?
A. About a mile and one quarter south of No. 4.
Q. Are you a married man? A. Yes.
Q. With a family? A. Yes, sir.
Q. Were you livng there in 1914? A. Yes, sir.
Q. Did you know any of the employes of the Bache-Denman Company during the summer of 1914?
A. I believe I knew one or two of them.
Q. Did you see them frequently? A. Yes, sir.
Q. Were they armed, any of them? A. Yes, sir.

Mr. McDonough: Talk up louder so that we can hear.

A. I have such a bad cold I can't hardly talk.
Q. Talk as loud as you can, Mr. Dunn. Did you have any trouble at any time while traveling the highways with those armed guards?
A. No, sir, I didn't have no trouble. Two of those guards threw their guns down on me and my daughter when we were going to Midland one evening.
Q. Had you given them any cause to do that?
A. No, sir, we were just going along the public road.

Mr. Covington: That is all.

Cross-Examination

By Mr. McDonough:

Q. Mr. Dunn, are you any kin to Pink Dunn?
A. Yes, sir.
Q. A brother of his? A. Yes, sir.
4107 Q. Were you a union miner at that time?
A. Yes, sir.
Q. How far were you from No. 4 when you say those people threw their guns down on you? A. 200 yards.
Q. What direction from Mine No. 4. A. North.
Q. Between No. 6 and No. 4? A. Yes, sir.
Q. When was that?
A. Really I don't remember, it must have been in June or July.
Q. Of what year? A. 1914.
Q. Were you working in a mine at that time?
A. Yes, sir.

Q. What mine? A. No. 6 Central.
Q. What mine? A. No. 6 Central.
Q. Were you working there in July, all of the month of July? A. Yes.
Q. And a union miner? A. Yes, sir.
Q. You say this was in June or July?
A. The best I can recollect, yes, sir.
Q. Who were the men?
A. Well, I don't know any one of them, I didn't know either one of them.
Q. You did not know them at all?
A. No, I just knew about three that was in there, and it was not either one of them.

Witness Excused.

4108 FRANK HALEY, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. Frank Haley.
Q. Where do you live? A. At Hartford.
Q. How long have you lived in Hartford?
A. About eight years.
Q. What is your business? A. I am a photographer.
Q. How long have you been engaged in that business?
A. In Hartford I have been engaged in that business about four years.
Q. During the summer of 1914 did you live down in that section? A. Yes, sir.
Q. You lived in Hartford then? A. Yes.
Q. Were you ever out at Prairie Creek No. 4?
A. I was out past there several times.
Q. Did anything occur? Did anything happen to you at any time you were out there?
A. One time I was passing there.
Q. Talk a little louder, please, Mr. Haley; we can't hear you back here.
A. One time I was passing there, I was coming up the railroad. I had been in about No. 6 Central and just as I got by No. 4, directly where that road crossing crosses the railroad going by the school house, there was a couple of armed men came up from towards the mine and one of them said, "Here, where are you going?" I said, "Going to Hartford." I was walking up the railroad, the Midland Valley. He said, "What have you got there?" I said,

"Photographs or pictures." And he said, "Let's see
4109 them?" And he took my grip and looked in it. During the time one of them had walked down the other way and he said to him, "Come on, Jim, that fellow is all right, he ain't one of them union sons-of-bitches"; and he turned me loose and I went on to Hartford and was not molested.

Q. Are you a married man? A. Yes.

Q. State to the jury whether or not at any time during the summer any people stopped at your house at night from Frogtown?

A. On the night or two before the battle, I believe it was the second night before the battle, I don't remember just exactly it has been so long ago now, it was along about that time, any how, there was three or four families that were up above where I lived on the road that came in from Frogtown and they had come into town and put out the report that Frogtown was being shot up. And one of the families I taken down to my house and kept them overnight. They were Italian people. And the next morning the lady had been sick and I taken her back out to Frogtown in my buggy.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. Hull:

Q. Mr. Haley, what night was that?

A. That was on the night, or the second night, before the trouble.

Q. You do not know which night?

A. I don't remember which one.

Q. The battle began Friday morning, was it Wednesday night? A. I would not be positive.

Q. What was the report you had heard?

A. That Frogtown was being shot up.

Q. Was being shot up? A. Yes.

Q. Who told you that?

A. The people who came there.

4110 Q. Who were they?

A. They were three or four different families.

Q. Who were they?

A. I could not call their names. I don't know those foreign people's names. One of them was, but I would not be positive, but I think it was a Miss Goodman.

Q. Where does she live?

A. In Frogtown at the time.

Q. Did she give you the details of the shooting up of Frogtown?

A. There was a good deal of excitement and I wouldn't be sure she did. That was the statement put out.

Q. It was an unusual thing for Frogtown to be shot up, wasn't it? A. No, I could not say it was.

Q. It happened every night, did it, of April, June and July?

A. We had been hearing of trouble out there before that.

Q. How long before? A. Several different times.

Q. Over how long a period before that?

A. Something like three or four days.

Q. So, in those three or four days it had gotten to be such a usual thing there to hear that Frogtown had been shot up that you cannot remember who these people were and who told you?

A. No. The people who stayed at my house were all of foreign nationality and I could not talk much to them.

Q. Where did you live?

A. In the east part of Hartford, on Third street.

Q. Were you over at Frogtown any of those nights?

A. I was in Frogtown on the night before the battle.

Q. On Thursday night? A. Yes, sir.

Q. What were you doing there?

A. I was deputized by the deputy sheriff, Omar Baker.

Q. Omar Baker, the deputy sheriff of Hartford?

A. Yes.

Q. What did you do after you got to Frogtown?

4111 A. I was instructed to guard and see that no trouble occurred.

Q. To guard Frogtown? A. Yes.

Q. Did you guard it? A. Yes.

Q. What time did you get there?

A. I went out there about eight o'clock at night.

Q. Who were out there?

A. There was ten men that was deputized and I was one of the ten.

Q. That was Thursday night? A. Yes, sir.

Q. If the battle was Friday morning, that was Thursday night? A. Yes.

Q. Who were those ten that were deputized, as you say?

A. Myself, George Dobbs, Frank Thorpe,—that is all I can remember.

Q. Where did you go?

A. I went out to Frogtown and stayed there in the streets of Frogtown until two o'clock.

Q. The three of you did that? A. Yes.

Q. You stayed right together, did you? A. Yes.
Q. You each had a gun? A. I had a gun and a pistol.
Q. [You] gave you them? A. I had them at home.
Q. They were yours? A. Yes.
Q. And George Dobbs and Frank Thorpe had guns and pistols, too, did they? A. Yes.
Q. What did you find at Frogtown about eight o'clock?
A. Everything peaceful and all right.
Q. Everything was all right as usual? A. Yes.
Q. There was no meeting or gathering of people?
A. No.
Q. There was none that night?
A. No, not until I left. I left about two o'clock.
Q. Up to that time no people were gathered in Frogtown? A. No.
4112 Q. Had there been any people there before you got there at eight o'clock? A. I could not say.
Q. You did not hear anything about a meeting there had been there? A. No.
Q. Where did you go at two o'clock? A. Back home.
Q. Why did you leave?
A. Everything was quiet and I was feeling pretty bad and I didn't think anything would occur.
Q. Did George Dobbs and Frank Thorpe go back?
A. I couldn't say.
Q. Did they go back with you? A. No.
Q. They stayed in Frogtown then, as far as you know?
A. Yes.
Q. Did you meet anyone on the street going back to Hartford? A. No, sir.
Q. You did not meet a soul?
A. No, I went across the field.
Q. You did not go back by the road?
A. No, I went by a shorter route.
Q. You did not go on the road?
A. No, I went by a cut-off that was nearer.
Q. Describe that cutoff?
A. I lived in the east part of town and it was nearer to take a path through a field.
Q. Did that path go all the way from Frogtown to Hartford? A. Yes.
Q. Did you see any men on that path? A. No, sir.
Q. Was that a well established pathway? A. Yes.
Q. A short cut from the eastern part of Frogtown to Hartford?
A. Yes, it cuts off about half a mile.

Q. So anyone that wanted to go from the east part
4113 of Frogtown to Hartford would take that path?
A. Not generally speaking.
Q. Well, you did?
A. Yes, but I was acquainted with the different ways around there. I have been through there and taken photographs so much.
Q. So other people would not know about it?
A. Lots of them would not be accustomed to going through there.
Q. You did not meet anyone on that pathway? A. No.
Q. Were you the only one that used it? A. No.
Q. But you never met anyone there?
A. Not at that particular time.
Q. What time did you go back to Hartford?
A. Something like 2:30.
Q. Was there anyone on the streets of Hartford?
A. Not in the part of town I lived. I lived in the east part.
Q. How far from the center of the town?
A. About half a mile.
Q. And you did not see anyone when you went home?
A. No. I lived out close to the cemetery and I was right at the suburbs of the town.
Q. When did Omar Baker deputize you?
A. On that night about 6:00 o'clock.
Q. What did he say to you?
A. He said, "There has been reports that the people up at Frogtown are having trouble and they have asked for protection and we have got to send some men out there."
Q. Do you know anyone else that was deputized that night?
A. I don't rember now anyone but those three. They are the only ones I remember.
Q. Had you been out to Frogtown before during that week?
4114 A. No, sir, I don't think so,—yes, a night or two before the battle I taken this lady out to Frogtown in the buggy that I told you about a while ago.
Q. What night was that? A. The day before the battle.
Q. Did you go back to No. 4 on the day of the battle?
A. Yes.
Q. About what time?
A. Something like ten or eleven o'clock.
Q. How did you happen to go? A. I walked out.
Q. What made you go out? A. I walked out that way.
Q. Did you take your camera with you to take pictures?

A. No, sir.
Q. Did you ever take any pictures of these mines?
A. Oh, yes.
Q. When did you take those pictures?
A. Which pictures?
Q. The pictures of the mines after they were destroyed?
A. I taken pictures and sold quite a number of them.
Q. You have none of them here?
A. None of the destruction pictures?
Q. You say you went out there about ten o'clock that morning? A. Yes.
Q. How did you happen to go out there,—
[—] I was just going out.
Q. You had no reason to go out there, did you?
A. No, only I just decided to go out that way.
Q. Had you seen any smoke over in that direction or heard any guns? A. I heard some guns.
Q. What time did you hear the guns?
A. It must have been about ten o'clock.
Q. On your way out did you meet any men coming to Hartford? A. No, sir.
Q. No one on the road at all? A. No.
4115 Q. You walked out? A. Yes, sir.
Q. And you met no one?
A. No, I went by the same pathway.
Q. And you met no one on that? A. No.
Q. You went to Frogtown? A. Yes.
Q. When you got there, was there anyone there?
A. There was a crowd up above on that hill there toward where the soldier camp was.
Q. Up on the hill where the soldiers were? A. Yes.
Q. On the next ridge to the Frogtown ridge? A. Yes.
Q. Was there anybody in Frogtown?
A. I seen a group of people sitting off down there a ways.
Q. A group of people sitting on the road?
A. No, off to the side of the road under some trees.
Q. Men and women? A. Yes, sir.
Q. Did they have any guns among them?
A. I did not see any.
Q. Did you see any man with a gun that morning?
A. No, not that I remember.
Q. Those men that you saw on the ridge, did they have any guns?
A. I could not tell you, they were quite a distance away from me.
Q. They were not shooting? A. No.

Q. There was no shooting going on when you got out of Frogtown? A. No, not at Frogtown.
Q. Was there any shooting going on from the ridge?
A. No, sir.
Q. Where was the shooting? A. In towards No. 4.
Q. There was no shooting in the woods around No. 4?
A. I didnt' go far enough that way, I didn't feel disposed to go any further down.
Q. All the shots you heard that day at eleven o'clock
4116 in Frogtown came from over toward No. 4?
A. The shooting was from in that direction.
Q. When did you go back to Hartford?
A. I stayed out there, I judge, a couple of hours.
Q. Did you stay there until the afternoon?
A. Yes, it was between twelve and one o'clock sometime, I guess.
Q. Was No. 4 burning when you left?
A. No, sir. I seen the fire after I got up on the hill before I went into Frotgown.
Q. After you got up on the hill going into Frogtown?
A. Yes, sir.
Q. Between No. 4 and Frogtown? A. Yes, sir.
Q. No. 4 was burning then when you got up there?
A. I seen smoke over there, I would not be positive it was No. 4 burning.
Q. What time was that?
A. Something like between twelve and one o'clock, I didn't have any time piece with me.
Q. Do you remember Mammoth Vein No. 1? A. Yes.
Q. And this is No. 3 (indicating) and this is No. 4 mine (indicating)?
A. Yes. May I come down there close to the picture?
Q. Yes, indeed. Were you up here on this hill? Is that the hill you speak of (indicating)? A. Yes.
Q. There is Frogtown and this is the ridge and this is where the soldiers were here (indicating), and this goes toward Hartford over there? A. Yes.

Mr. Covington: The bottom of that map is north.

Q. That is Hartford (indicating) and that is Midland and this is the school house. A. And this is Frogtown?
Q. Yes. A. Well, I was right here (indicating).
4117 Q. And you looked back over this way and saw No. 4 burning? [—]
Q. It was 4 then, it was over in this direction? A. Yes.
Q. Was Mammoth Vein No. 1 burning?

A. I believe it was burning in the morning when I got out there to the best of my recollection now.

Q. So between twelve and one o'clock you saw No. 4 burning? A. Yes, sir, something near that time.

Q. What time did you get back to Hartford?

A. It was either 2:00 or 2:30.

Q. Did you meet anybody on the way?

A. No, sir, I came back the same pathway.

Q. No one was using that pathway in the afternoon?

A. No, sir.

Witness excused.

4118 JOHN T. W. DAVIS, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. State your name. A. John T. W. Davis.

Q. Where do you live? A. I live near Midland.

Q. How long have you lived there?

A. Well, I moved there last August, I believe, at the place where I am at now.

Q. Did you live in that neighborhood prior to that time?

A. I have been in that vicinity for a number of years.

Q. For how long?

A. Well, about 27 or 28 years, I guess.

Q. 27 or 28 years? A. Yes, sir.

Q. Where were you in 1914, in the summer of 1914?

A. I was living at Prairie Creek.

Q. What is your occupation?

A. Well, the principal part of my work has been,—I have several trades, my principal work has been coal developing and prospecting, a good deal of it; and I have dug coal; and I was engineer and machinist and blacksmith.

Q. Mr. Davis, did you have occasion to meet any of the guards or employes of the Bache-Denman Company at No 4 during the summer of 1914?

A. Why, yes, I had occasion to meet them numbers of times going and coming to work.

Q. Did anything out of the ordinary occur?

A. How is that?

Q. Did anything out of the ordinary occur?

A. Well, three or four different times we had a little unpleasantness.

Q. In what way, Mr. Davis?
4119 A. Now, then, if you will let me tell it just what happened, I could do probably a great deal better.

The Court: Please answer the question.

The Witness: Just answer the question?

The Court: Yes, sir.

Q. You cannot hear very good, can you, Mr. Davis?
A. No, sir, I can't hear very good.
Q. Tell what occurred? A. How is that?
Q. Tell what occurred?
A. He said to answer the questions.
Q. Well, answer it?
A. We didn't have particularly any trouble, but the first I noticed of any unusual conditions existing, I was traveling along the road going to work one day and there was a fellow sitting close to the big road inside of the wire, apparently asleep, with his gun across his lap, and I was afoot and walking along and when I was close to him he jumped up very suddenly and got behind a tree and put his gun in this position (indicating) and kept pointing it around this way (indicating) until I got past him. That was the first thing and I just made the remark to him, I said, "Don't get scared, I am not going to bother you". I was farming that year and was on the way to the field.

Well then, another occurrence taken place in regard to tearing down my fence to get water. I had a piece of land leased or rented from the Cherokee Construction people and there was a well inside of the enclosure that we had been getting water from there at the mines ever since the mines were started and we had steps built over the fence to save the trouble of having the gate left open that stock might get into the field, and in order to avoid that trouble we built a step and walked right over it and we went to the farm
4120 where the well was just inside the enclosure of the stockade. At that time they only had one or two wires up and they could go in anywhere there they wanted to and pass where they pleased, and in place of going over the step they would tear the wires down and go through; and so I made complaint about the matter to Mr. Moore and he said he would arrange matters. Mr. Moore was kind of a super or mine foreman or something of that kind. So, I was there one day fixing up the fence they had tore down and one of the guards, I don't know what his name was, came to me and asked me what I was doing. I told him I was fixing the fence

to keep the stock out and he said, "You get out of here or I will take you up to the office." I said, "I have business here and I have a right to fix up my fence, and I want you to keep this fence up and walk over the step here, you can do that." He went back and Mr. Denman and Mr. Moore and Mr. Daugherty, and I believe Mr. Langford from Clarksville, came down and Mr. Denman asked what the trouble was. I said, "You can see what the trouble is, your men are failing to go over the step here and are going over the fence and tearing the fence down and [leeting] the stock in my place and I don't want to put up with it. It is a personal matter with me and it is a business proposition. I have my crop in here and am cultivating it and I don't want the stock in here and they can go over the steps as well as through". And they proposed to buy then that part of the enclosure and I told them I would sell that part of the crop in case they would fence me off and put up a good wire between me and the fence and they agreed to do that and they did do it and that is the only thing that happened there.

4121 A. (Continued.) But there was another occurrence that taken place now, in passing to work, on the other side, outside of the wire; I frequently went through that way a foot. That was the main traveled way to the farm and I most always went that way, until they fenced the pathway up, and I was going around that way, and didn't follow the path, it was fenced up on the outside, and there was a guard sitting back, I reckon 75 yards from the fence; they had a good strong wire at that time, and he hailed me, and I stopped to see what he wanted, and he said, says he, "don't yon know it is against the rules, we have instructions not to allow anybody to pass this way", and I said, "My friend I didn't know that, I have been traveling this road along here for fifteen years, and have never been molested before" and he says, says he "You are not allowed to go this way", and says he "If you pass through that way any more we will have to take charge of you and send you to Fort Smith", and I said, "My friend, I have never been molested in this country before, and I am a free American citizen, and if you would put in half your time attending to your business and the other half letting other people alone, we won't have no trouble at all" and he ordered me to come under the wire then and I told him I was not coming, and he cocked his gun and pointed at my breast, and he said "God damn you, if you don't come in I will shoot you" and he said "Shoot" and started to say "hell" and started to —and I was close to him, and I grabbed for the gun to keep him from shooting, and I jumped back, and he said, "Come

under, and I will shoot you," and he told me three or four times to come under, and I said "If you want me on the inside those wires you have got to come out after me." That I hadn't done nothing and bothered nobody else, and vi-
4122 olated no laws, and I went on home and left him the way it was.

Mr. Covington: Take the witness.

A. What did you say? There was another circumstance in regard to shooting, before I sold out to them, I was in the stockade to see Mr. Moore in regard to putting up the fence, and there were,—

Q. (Interrupting.) Just tell what occurred, don't go all over that stuff, just tell what occurred, what was said and done.

A. I will have to tell the circumstances of where I was to get the full details of it, and there was quite a lot of shooting up on the hill, and I said to Mr. Moore, "Mr. Moore what does that shooting all mean" and he said, "Those boys are up there practicing", and I said, "Don't you realize the fact that that has caused considerable disturbance in this community, going on with that shooting" and he said he didn't know, and I said, "It is" and he said, "I will put a stop to it", and he sent some man up there to stop it, two of the guards went up there and stopped it.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:

Q. Were you an officer at that time, Mr. Davis?

A. No, sir.

Q. Were you a short time before that?

A. I was an officer, I can tell you pretty well when I went out of office and when I went in. After Mr. Slankard was elected constable of Hartford Township I was no officer any more of Hartford Township. Well, after the Bill Johnson Township was established,—now you ask these questions and you want these answers, don't you?

4123 Q. Yes, I would like to have them answer, but I don't want the history of the world in the answer.

A. Well, that's all right. I don't know exactly how long before I was an officer, or when I went in later.

Q. Were you one of the defendants in the injunction proceedings? A. How is that?

Q. Were you one of the defendants in the injunction proceeding?

A. Not personally, I didn't believe, I don't remember.
Q. You were served with an injunction, and injunction sustained against you, was it not?
A. No, I was not, I don't think I was. My name was not on the injunction at all. There was others. I don't remember by name on the injunction or not.
Q. To refresh your memory, don't you know you were one of the men against whom the injunction was issued?
A. I don't remember whether it was or not; I don't remember whether it was or not.
Q. You did testify in the case, did you not?
A. How is that?
Q. You testified in the case, did you?
A. In the Federal Court here?
Q. Yes? A. No.
Q. In the injunction case?
A. I don't think I did; I was objected to; you objected to me.
Q. But you testified just the same, didn't you?
A. I don't think I did, sir, I think I was objected to and stood aside.
Q. Your name is John T. W. Davis? A. Yes, sir.
Q. There is no other John T. W. Davis down there?
A. No, sir, but I don't think I testified in this court,
4124 you objected to it and I was ruled out.
Q. You were excluded from the court room while the testimony of the other witnesses was being taken?
A. I didn't testify in this court.
Q. And didn't get to testify at all? A. No, sir.
Q. And was not called as a witness in that case?
A. No, sir, you objected to it and the Court sustained it, is that right?

Mr. McDonough: That is all.

Mr. Covington: Stand aside.

Witness Excused.

4125 Miss Carnie Dowdy, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name? A. Miss Carnie Dowdy.
Q. Where do you live?
A. My home is in Calloway County Kentucky.

Q. Are you teaching school in this county? A. I am.
Q. Were you teaching at Prairie Creek in 1914, Prairie Creek this county?
A. I was teaching at Central Point, in 1914, District No. 19.
Q. Were you stopping at Prairie Creek?
A. Stopping at Camp Beulah.
Q. In Frogtown? A. Yes, sir, Frogtown.
Q. Were you at Prairie Creek on the night it was shot up, in July? A. In Prairie Creek?
Q. I mean in Frogtown? A. I was, yes, sir.
Q. About what time did that occur?
A. Well, really, I don't believe I remember just what time that night it did take place, but the best I remember it was about 10:00 o'clock.
Q. Were you boarding there at that time?
A. Yes, sir, I was I was boarding at that time.
Q. With whom were you boarding?
A. J. W. Anderson.
Q. Had you retired for the night when the shooting begun? A. Yes, sir, I had.
Q. What did you do?
A. The first thing I made for the cellar, the first place.
Q. The cellar? A. Yes, sir.
Q. Anyone else in the cellar when you got in there?
4126 A. We all went in at the same time, about the same time the family where I was boarding and myself.
Q. Was there any other families in there?
A. I don't remember any other families being there that night, no.
Q. Did that school run all the time, or was it interrupted, and if so, for what cause?
A. We had school the week of the 17th, except the day of the 17th, but school was not just exactly what it should have been that week, the children were all torn up, and of course the teachers were all torn up under this excitement.
Q. Did you or did you not have to take the children home?
A. Yes, sir, I made it my business to go with the little children and girls home, backward and forward, to school, and one evening, if no more, the inhabitants of Frogtown, or some of the men rather, came up to the school building and walked back with us.

Mr. Covington: Take the witness.

Mr. McDonough: No questions.

(Witness excused.)

4127 ED BAKER, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. State your name. A. Ed Baker.
Q. Where do you live, Mr. Baker?
A. Hartford, Arkansas.
Q. Where did you live in 1914? A. Hartford.
Q. How long have you lived in that section of the country?
A. About eight years.
Q. Were you living in Hartford in the summer of 1914?
A. I was.
Q. Do you know a man named Jess Goatcher?
A. No, sir.
Q. Did you try to hire a mule from Jess Goatcher to plow, and take the mule and buggy and go around to get guns for the miners A. No, sir.
Q. Did you tell him anything of that kind, Ed?
A. I don't know him, and never seen him in my life to know him.
Q. You never seen him in your life? A. No, sir.
Q. Did you state to him, or anyone else, that you and Joe Overman, were two of the men that helped clean up Looper and Sylsberry on the 6th of April, at the mine?
A. No, sir, I don't know Joe Overman either.
Q. You don't know Joe Overman?
A. No, sir, I never seen him to know him.
Q. It was also stated by Goatcher that you tried to trade him a red pair of shoes, stating that you had got the blood on them from tromping, or rather kicking the teeth out of Looper, on that occasion.
A. No, sir, I never done that either.
4128 Q. Did you have anything to do with the beating up of Looper on the 6th of April?
A. I did not, I worked on the 6th of April.
Q. You worked on the 6th of April A. Yes, sir.
Q. You were not out there at all A. No, sir.

Cross-Examination

By Mr. McDonough:

Q. Where did you work on the 6th of April?
A. No. 4 Central, at Hartford, Arkansas.
Q. Did the mine work that day? A. Yes, sir.
Q. All of the men?
A. I don't know about all of them, but I did.

Q. Did all of the men go down? A. The diggers worked.
Q. All the diggers worked?
A. I don't know whether all of them did or not.
Q. Did you go down at the usual time? A. Yes, sir.
Q. And in the usual way?
A. Yes, sir, just like I would go down any time, to go down.
Q. Jim McNamara worked at your mine?
A. Yes, sir, he worked at the mine.
Q. Did you see him that day?
A. I don't remember whether I did or not.
Q. Did you not come out that day before the day was over? A. No, sir.
Q. You say you don't remember of seeing Jim McNamara at No. 4?
A. I don't know whether I did or not, I don't remember.
Q. Don't you know Mr. Baker, that No. 4 did not work on the 6th of April?
A. No, sir, I don't know it, I know that it did.
Q. And worked all day long?
A. I worked all day long.
Q. Did any of the men come out that you knew about?
4129 A. Not to my knowledge.
Q. You don't know that Jim McNamara went around that morning in Hartford and closed the store?
A. I do not.
Q. Jim McNamara was check-weighman at No. 4, was he not?
A. I don't know whether he was or not.
Q. How long have you worked at No. 4 Central?
A. Seven years.
Q. And you don't know whether Jim McNamara was check-weighman at that time? A. No, sir, I do not.

Redirect Examination

By Mr. Covington:
Q. They changed check-weighman every once in awhile, don't they, Ed? A. Yes, sir.
Q. And you didn't know anything about it?
A. No, sir.

(Witness excused.)

4130 GEORGE FULLER, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. Your name is George Fuller? A. Yes, sir.
Q. Where do you live?
A. I live at the Dallas Mine, near Hartford.
Q. In this County? A. What did you say?
Q. Were you living there in 1914? A. Yes, sir.
Q. In the summer of 1914? A. Yes, sir.
Q. Is the Dallas tipple standing today?
A. Part of it is, all but the siding.
Q. What became of the siding?
A. The soldiers got it.
Q. The soldiers? A. Yes, sir.
Q. It was dismantled by the soldiers, was it?
A. Yes, sir.
Q. Did you furnish them tools to dismantle it with?
A. Yes, sir and the blacksmith shop too was taken by the soldiers.
Q. Do you know Elmer Bohannan? A. Yes, sir.
Q. Do you know what business he was engaged in in 1914?
A. Yes, sir.
Q. What business was it?
A. Operating a blind tiger.

Mr. McDonough: We move to exclude the testimony as to Elmer Bohannan.

The Court: It will be excluded, and it will be stricken out.

Mr. Covington: He testified he was engaged in the operation and conduct of a coal mine, and we are seeking to show that he was not.

4131 The Court: You can ask him if he was operating a coal mine.

Q. Was he operating a coal mine?
A. No, sir, he was not.
Q. About the 15th or 17th, along there, in July?
A. Yes, sir, he was operating a blind tiger.
Q. The Court said you could not answer that. Was he operating a coal mine along about the middle of July?
A. No, sir, he was not.

Mr. Covington: Take the witness.

Mr. Hull: No questions.

(Witness excused.)

4132 MRS. CHARLES GOODEN, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. State your name please? A. Mrs. Gooden.

Q. Where do you live?

A. Just about a half mile south of Frogtown.

Q. Where did you live in the summer of 1914?

A. I lived in Frogtown.

Q. Were you in Frogtown on Sunday night, about the 13th of July, along there? A. Yes, sir.

Q. July 12th, I believe it was, when Frogtown was shot up?

A. On Sunday night, yes, sir, I lived there then.

Q. Did you remain at home that night?

A. Why, no, I did not.

Q. Where did you go?

A. I remained at home until, well, it was about, just about half past 10:00 between that time and 12:00 o'clock.

Q. Where did you go?

A. I went to Mr. Peterson's cellar.

Q. You went to Mr. Peterson's cellar? A. Yes, sir.

Q. How far away was that from your residence?

A. Well, I just couldn't hardly tell you which way, right across the street, but a little kind of,—he was not directly across the street, but a little that way; over here is an alley that ran between Mr. Peterson's,—well it was just about like that, you know, from where I lived.

Q. Diagonally across the street?

A. Yes, sir, just like that.

Q. I show you Defendants Exhibit No. 26, and will ask you if that is the house and the culvert across the road

4133 and the house that you went to that night.

A. Yes, sir, that is the very place.

Q. How did you get to that house?

A. I crawled in a deep ditch, I crawled to it, and through that culvert, pretty near to that gate there and when I got to that gate I went low, and went right around this house here, and the cellar is right here underneath this building here (indicating.)

Q. You went in that cellar, did you?

A. Yes, sir, right back in there.

Q. Does that represent the culvert through which you crawled?

A. It looks like the one, only the ditch is down this way (indicating).

Q. I understand it don't show the ditch, but is that the culvert leading into it? A. It looks like it.

Mr. Covington: We offer defendants Exhibit 26 in evidence.

Mr. Hull: I would like to know when that picture was taken.

Mr. Covington: Taken about a week ago.

The Court: She says it looks like it, is about all she has said; that is hardly sufficient foundation.

Q. Is that the house?
A. That is the house, and that culvert looks just exactly like the place I crawled through.

The Court: It will be received.

Q. Did you hear any gun fire that night? A. Yes, sir.
Q. Did you hear the bullets whiz around there?
A. I went out on the porch, after I heard gun firing, and there was a bullet passed between my house and Mr. ....., and it just sounded like "ping" and like that you
4134 know, and cut off leaves off of a little peach tree out in a yard, and then I made for the ditch, and from that to Peterson's cellar.

Mr. Covington: Take the witness.

Mr. Hull: No questions.

(Witness excused.)

4135 CALE R. JONES, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. Cale R. Jones.
Q. Where do you live, Mr. Jones?
A. Kansas City, Missouri.
Q. How long have you lived at Kansas City, Missouri?
A. About fourteen years.
Q. What is your occupation? A. Shorthand reporter.
Q. Have you ever attended any of the conferences between the miners and operators of the southwest field, that is including the states of Missouri, Kansas, Oklahoma, Texas and Arkansas?

A. I think I have attended all of them since 1906.
Q. Did you report the proceedings of them? A. I have.
Q. And did you hear the discussions and report the speeches, agreements and so forth? A. Yes, sir.
Q. Mr. Jones, in either of those conferences since 1906 up to 1914, was there any agreement, contract or understanding between the miners and operators by which the miners agreed, in consideration of the operators operating their mines with union labor, to obstruct, hinder or delay interstate commerce in non-union coal?
A. I never heard of any thing.
Q. Was there any contract, agreement or understanding of any kind or character by which the miners, in consideration of the operators conducting their mines with union labor, the miners were to resort to violence, lawlessness, murder and arson to prevent the production of non-union coal
4136 in the end that it might be kept off of the market in competition with union coal?
A. No, I never heard of it. In fact, I have heard very little discussion in any conference regarding non-union coal.

Mr. Covington: Take the witness.

Mr. Drinker: No questions.

(Witness excused.)

4137 FRED EVANS, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. Your name is Fred Evans? A. Yes, sir.
Q. Where do you live, Mr. Evans? A. Hartford.
Q. How long have you lived there?
A. Pretty near ever since there has been any town.
Q. Down where?
A. I have lived there pretty near ever since it has been a town.
Q. Oh, since it has been a town. I didn't understand you; you were living there then in the summer of 1914, were you?
A. Yes, sir.
Q. Are you a married man? A. Yes, sir.
Q. Were you then? A. Yes, sir.
Q. Did any of the families living at Frogtown come into Hartford a short time before the battle on the 17th of July, 1914? A. Yes, sir.
Q. Did some of them put up at your place?

A. Yes, sir.
Q. Do you remember the families?
A. I remember a few of them.
Q. Name them if you can.
A. Jack Hunter and his wife, and Pete Graham's wife and Mrs. Miller, and that is about all the names I remember now.
Q. That is all that you remember now?
A. Remember the names.
Q. What time of night was it when they came in?
A. They came in just about dusk.
Q. About dusk? A. Yes, sir.
Q. Now, on what night was that, if you remember?
4138 A. Well, there were two or three nights they came in, I don't remember just what night they did come in.
Q. They came in on more nights than one?
A. Yes, sir.
Q. Do you know why they came into Hartford?
A. Why they were scared with the shooting up of Frogtown.

Cross-Examination

By Mr. Hull:
Q. Was that Mrs. Pete Graham, Mrs. Pete Graham, Sr?
A. Yes, sir.
Q. Were you here yesterday,—did you hear her testify yesterday? A. No, sir, young Pete Graham's wife.
Q. I thought you said it was Mrs. Graham, Sr?
A. I misunderstood you then.
Q. That was the first night that they came in?
A. I don't remember just what night the first night was.

(Witness excused.)

4139 THOMAS H. SHAW, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. Thomas H. Shaw.
Q. Where do you live? A. Midland.
Q. Midland, Arkansas? A. Yes, sir.
Q. In what business are you engaged?
A. Coal business.
Q. Have you been a coal miner? A. Yes, sir.
Q. How long were you a coal miner? A. 20 years.
Q. 20 years? A. Yes, sir.

Q. Have you at any time in recent years been State Mine Inspector of the State of Arkansas? A. Yes, sir.
Q. Do your duties as such official call you to examine the mines in the state, the coal mines? A. Yes, sir.
Q. How long were you mine inspector?
A. Four years and six weeks.
Q. Four years and six weeks? A. Yes, sir.
Q. During that period did you examine what is known as the Coronado Mine, in Johnson County, belonging to the Coronado Coal Company? A. Yes, sir.
Q. Or Sebastian County, I mean? A. Yes, sir.
Q. Mr. Shaw, when did you make the last examination of the Coronado Mine, if you remember?
A. I think it was in November, 1913.
Q. November 1913?
A. I think that was the month.
Q. State to the jury what the condition of that mine was at that time, with reference to being worked out.
A. Well, the mine was practically worked out.

4140 Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:
Q. Mr. Shaw, do you know what leases and property the company had? A. Yes, sir.
Q. Do you know what leases they had unworked, and not worked out at that time?
A. Well, they had No. 4 Prairie Creek.
Q. I mean Coronado, you were only asked about Coronado. A. Oh, Coronado?
Q. At Coronado, do you know how much?
A. No, sir, I don't know the acreage.
Q. You don't know the acreage? A. No, sir.

Redirect Examination

By Mr. Covington:
Q. You don't know the acreage, now then explain how it is that you stated that it was practically worked out.
A. I know from the maps, and the surrounding mines in that territory.
Q. What maps have you reference to?
A. Official maps turned over to me by the Coronado Coal Company.
Q. Have you those maps in Court with you?
A. I don't know whether they are here or not.
Q. Would you know them if you would see them?
A. Yes, sir.

Q. Mr. Shaw, will you come here and select the map, either one of these maps which is the Coronado map?
A. This is the Coronado map.
Q. Is that the map turned over to you by the company?
A. I don't know whether it was this particular one, if not, it is a copy of it.
Q. A copy of the map? A. Yes, sir.
4141 Q. As prepared by the coal company itself?
A. Yes, sir.
Q. Now, Mr. Shaw, I hand you defendants Exhibit 27, and will ask you what it is.
A. That is a map of the Cornado mine.
Q. The map was prepared by the coal company itself?
A. Yes, sir.
Q. What date was it prepared?
A. This is the 2-25-1913.

Mr. Covington: Now, I offer this map in evidence.

A. (Continuing.) This is the date up there that extension was made there.
Q. Now, will you stand over so the Court can see also. Now, will you take this pointer and show the jury why you say that that mine was worked out?
A. Here is a barrier pillar clear over in No. 1 Prairie Creek, and in the Coronado Mine, and all this part of the mine caved in by a squeeze in 1912 I believe. I was working in the mine at the time.
Q. What do you mean by a squeeze?
A. The pillars had been robbed,—
Q. (Interrupting.) You mean mined out?
A. Yes, sir, and lacking pillars, and that was crushed by the weight, and consequently that let that all cave in. I was driving this entry here (indicating) at the time that that squeeze occurred there, and all this section caved in, and up here, this entry was driven to the line, and here comes the old workings, and it was broken through I believe, and the rooms up there were driven practically to the line of the Central Coal & Coke Company's property. And on this side, these entries were driven through in the Smokeless Fuel Company's mine, and that practically finished that part of it. This section down here, this entry on the west side
4142 of the shaft, you entered a fault there, or frozen fault of coal and water.
Q. What do you mean by frozen coal?
A. Coal that is frozen to the roof, and the miners require extra compensation. As well as I understand it at the time that strip was frozen, and there was a controversy over it,

and this part down here, I believe that was called the first dip off the main east entry, and that was practically finished, and was almost down to the central line, and later, that all squeezed and caved in.

Q. That entire entry?

A. Yes, sir, that is what I understand. I was in it shortly after it caved, and saw the cracks in the earth, where the whole thing had caved in. This section over here, was up to this barrier, consequently they could not work it any more. That is why I claimed that the mine was practically finished.

Q. Practically worked out? A. Yes, sir.

Mr. Covington: That is all.

Recross Examination

By Mr. McDonough:

Q. Mr. Shaw, I wish you would point out on that map where the shaft was? I will withdraw that question, and ask you, is this a picture of Coronado Mine tipple?

A. Yes, sir, that is the tipple.

Q. Show on that map where that tipple was located.

A. There is the shaft; that white spot, right there represents the shaft.

Q. Now, where was the old workings of the old Prairie Creek Mine No. 1, or the old Prairie Creek Company?

A. Right in here (indicating).

4143 Q. Those workings were all worked out?

A. Yes, sir.

Q. Now you say the date of this map is what?

A. 2-25-13, it shows the date there, that is all I have to go by.

Q. That Mr. Shaw, is nothing but the date when that particular place was worked is it? A. Yes, sir.

Q. You find dates all over this? A. Yes, sir.

Q. And those dates show the date when that working was done? A. Yes, sir.

Q. And you selected a date of 1913?

A. I took that date there.

Q. But that don't show the date of the map there?

A. No.

Q. When were you in the mine the last time?

A. In November 1913, I think was the month.

Q. Do you know anything about who owned this land here (indicating)?

A. Well, I think the Coronado Coal Company owned that land.

Q. Do you know who owned the land down here, or has a lease on it?

A. Yes, sir, the Coronado Coal Company owns the land.
Q. The dip of the coal is this way is it, (indicating)?
A. Yes, sir.
Q. Do you know where the 130 acre tract of land is that belonged to this mine, where it is located, whether it is on this map or not? A. No, sir, I can't tell.
Q. And how much acreage they had you don't know?
A. No, sir, all I know is the nearness of the adjoining property, and how much coal was left between there.
Q. But you don't know how much of the land surrounding this was leased to the Coronado Coal Company?
A. No, sir.
Q. You have no knowledge of that? A. No, sir.
4144 Q. Do you know whether this tract up here on this end of the map, was leased to the Coronado Coal Company (indicating)?
A. No, sir, I think that belonged to the Smokeless Fuel Company.
Q. I am not asking you to state, do you know?
A. No, sir, I don't.
Q. And you don't know whether the Smokeless Fuel Company had leased it to the Cherokee Construction Company and they had leased it to the Coronado Company, you don't know? A. No, sir.
Q. When were you in this mine last?
A. In November, 1913.
Q. You had not been about the mine since then?
A. No, sir.
Q. Do you know whether it is being worked now or not, up here in this part of the mine, of your own knowledge? you don't know of your own knowledge I won't ask you.
A. No, sir, I don't know.
Q. Now, Mr. Shaw, do you know how many acres was represented on this map?
A. No, sir, I have not figured that out.
Q. You cannot give an estimate of that, of how many acres the map covers?
A. Yes, sir, I would say 160 acres.
Q. Do you know where the east dip is? A. Yes, sir.
Q. Do you know whether or not coal was coming out of there just before the mine was destroyed, being mined out of that? A. Yes, sir, I think it was.
Q. And do you know whether coal was being mined in here or not (indicating)? A. No, sir, I don't know.
Q. Do you know whether it was mined over here or not (indicating)?
A. Yes, sir, I know it was mined over there.

Q. Was this an entry line there? A. Yes, sir.
Q. And this is the plane running up that way?
4145 A. Yes, sir.
Q. And an entry up here? A. Yes, sir.
Q. Which entry was that?
A. The west dip entry.
Q. Do you know the length of that, from your own personal knowledge, or are you judging from the map?
A. Well, I suppose it was down about 1000 feet.
Q. Did you go in those workings in November 1913?
A. Yes, sir, I inspected the entire mine.
Q. Went through it all? A. Yes, sir.
Q. In 1913? A. Yes, sir.
Q. In going through the mines, that gives you no idea of the acreage, beyond the working? A. No, sir.
Q. You were mine inspector for four years and six weeks, I believe you said. A. Yes, sir.
Q. You are not mine inspector now? A. No, sir.
Q. You are engaged in coal operation now?
A. Yes, sir.
Q. Where are you operating coal mines?
A. Hackett, Arkansas.
Q. What mine? A. The Branner Mine.
Q. For yourself?
A. No, sir, I am general manager for the National Coal & Mining Company.
Q. The National Coal & Mining Company bought that property of the receiver of the Branner Coal Company?
A. Yes, sir.
Q. And you took it over after they got it, that is you became general manager? A. Yes, sir.

(Witness excused.)

4146 DR. H. C. KING, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name? A. H. C. King.
Q. Your profession? A. Physician.
Q. Where do you live, doctor?
A. Fort Smith, Arkansas.
Q. How long have you lived here?
A. About 11 years.
Q. Were you in the Hartford Valley on the 17th day of July, 1914? A. I cannot tell you, sir.

Q. Were you there on the day on which they were said to have had a battle down there? A. Yes, sir.

Q. What were you doing down there, doctor?

A. At that time I was chief surgeon of the Midland Valley Railroad, and the claim agent came to Fort Smith, and they wanted to get some pictures taken of a tipple down at Greenwood, where they had had an accident, so they got Mr. Redner, the photographer, and took my machine, and I took a mechanic along with me, and we went down to Greenwood to take some measurements, and take some pictures at the place of this accident, at this coal mine or shaft. After that was over, we heard that there was some trouble down about Prairie Creek, and we decided to drive over there.

Q. Did you find out where they were from?

Q. Well, did you see anyone on the road with guns?

A. We drove over to Prairie Creek mines, and the Midland Valley Railroad crew was in there with a switch engine trying to get some cars out, and they had some teams there where they could not get to the cars, and they were pulling the cars out of danger of any fire, and we stayed there a few minutes, it was very late in the evening, and we
4147 started off home, and didn't see anybody or anything, and exerything was perfectly peaceful at that time. On the way home, just before reaching Hackett City, it was dark, and we passed a crowd of fellows along the road, I didn't pay much attention to them, and we went on a mile or two further, near Hackett, and we met another crowd, and I stopped and talked to them and found out that they were armed, had arms with them, guns and revolvers, and they told us who they were and where they were going, and they were coming to Fort Smith. They were going to catch the train at Hackett City, and said they didn't want to go into Hackett City with any guns on them, so I volunteered to take their guns and ammunition into Fort Smith for them. So after we heard their story, we turned around and went back and met the other crowd, and told them what had happened, and they did likewise.

Q. They gave you their guns too?

A. Yes, sir.

Q. Did you find out where they were from?

A. Yes, sir.

Q. Where?

A. They said they had been guards at the Prairie Creek Mine.

Q. How many guns did they turn over, if you remember?

A. I couldn't say positively, there must have been about thirty I judge.
Q. Rifles and high powered guns?
A. Rifles and revolvers and ammunition.
Q. How much ammunition did they have?
A. I don't know, there was a good sized box full.
Q. You brought them to Fort Smith, did you?
A. Yes, sir.

Mr. Covington: Take the witness.

4148 Cross-Examination

By Mr. McDonough:
Q. About what time did you get to No. 4?
A. Just about dark, I think.
Q. You were a witness in the other case in this court, were you not, doctor? You testified in this same case before? A. I don't think so.
Q. Don't you remember being called in 1914 as a witness? "Dr. H. C. King, a witness for the government, being first duly sworn testified as follows: Direct-Examination by Mr. McDonough". Does that refresh your memory as to whether or not you were a witness in that case?
A. I expect it would.
Q. Look and see if you can recall if you were a witness? I don't care for you to read it all, but just read enough to refresh your mind, if it does refresh your mind that you did testify in the contempt proceeding.
A. Yes, sir, I think so.
Q. You are surgeon for the United Mine Workers Now?
A. I have an association, a hospital association for them.
Q. You are their chief surgeon now?
A. I am the chief surgeon of the hospital association.
Q. Of the United Mine Workers?
A. It is not affiliated,— it is affiliated with the United Mine Workers, but not owned and controlled by them. It is a voluntary proposition.
Q. But your title,—that is all; it is the United Mine Workers hospital?
A. No, sir, it is my hospital.

(Witness excused.)

4149 The Court: Have you any other witnesses that you can call, Mr. Covington?

Mr. Covington: I don't believe we have. I think we have only about three more witnesses, and two of them should

have been on the train from Kansas City this afternoon, but they didn't come, but they will be very short when they get here.

The Court: The Court in inclined to treat today's work as satisfactory.

We will now stand adjourned until 9:30 o'clock tomorrow morning.

4150 Fort Smith, Arkansas.

November 16, 1917, 9:30 o'clock A. M.

Pursuant to adjournment as last aforesaid came all of the parties as before on Friday, November 16, 1917, at 9:30 o'clock A. M., and the trial of the case proceeded as follows:

Mr. Hull: If the Court please, there is one matter I think I would like to present to the Court at this time. The Court will remember that some days ago in connection with the testimony offered from the minute books, we asked for two books that seemed to be missing. They were the books of Local 2112, the Frogtown local and Local 340, Midland local. There have been handed to us affidavits purporting to cover those, but they do not seem to cover them at all. The affidavit in regard to Local 2110 is by the financial secretary and does not cover the minute book in question and there is nothing whatever in these affidavits covering the minute book of Local 340, and there are two locals covered which we did not ask for at all.

The Court: Let me see the affidavits (affidavits shown to Court). This affidavit in regard to Local 2110 does not refer to the minute book in question.

Mr. Covington: We will furnish them then, your Honor. Those affidavits were made early in the term. I thought the necesary affidavits had been filed, and I did not really know as there have been so many of these things. I know the building containing these records was burned down.

The Court: 2053, which is that?

Mr. Hull: We did not ask for that at all.

Mr. Grant: In the last affidavit it is shown that the
4151 hall was burned. That is in reference to another matter.

The Court: You state in this affidavit that he searched in his files for the books, but it does not say whether the record

in question was burned, that is the record that is being asked for.

Mr. Hull: The record of Local 340 is not covered at all.

The Court: It is now getting so near the close of the case I do not see how you can comply with this order except by sending a special messenger.

Mr. Covington: We will despatch a special messenger and get the necessary affidavits. I thought those affidavits were sufficient to cover the matter.

Q. The Court: How long will it take you to procure those?

Mr. Covington: We ought to get down there and back in three hours. Let us understand Mr. Hull, just what you want.

Mr. Hull: There are just two that we want, to cover the minutes of Local 340 and the minutes of Local 2110.

Mr. Grant: Between what dates?

Mr. Hull: From April 1st,—we will say to April 1st, 1915.

Mr. Covington: You have the minute book from Camp Beulah for one period.

Mr. Hull: After the trouble was over.

Mr. Covington: Which you have not introduced.

Mr. Hull: We are only asking for the other two I have named, for Local 340 and Local 2110.

4152 MARION HULSEY, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. State your name. A. Marion Hulsey.
Q. Where do you live, Mr. Hulsey? A. Midland.
Q. How long have you lived there?
A. Since 1910 in August.
Q. What is your occupation? A. Coal miner.
Q. Did you ever work at the Coronado Mine?
A. No, sir, I never did.
Q. Did you ever work in the mine known as the Smokeless Fuel Company's mine adjoining Coronado, on that 130 acre tract? A. Yes, sir.

Q. When did you work there?
A. I began,—I worked somewhere in the latter part of 1910, and from that on up to 1913.
Q. Up until 1913? A. Yes, sir.
Q. Who was conducting that mine? Who was in charge of the mine of the Smokeless Fuel Company?
A. Mr. Woodson, C. C. Woodson.

Mr. Covington: Mr. Stenographer, I wish you would mark this map as one of defendants' exhibits.

(Map in question marked by stenographer Defendants Exhibit No. 27.)

Q. I hand you defendants Exhibit No. 27 and ask you if that is a map of the workings of mine located on the Smokeless Fuel Company's property, adjoining the Coronado?
A. Yes, sir.
Q. Did you say it was? A. Yes, sir.

4153 Mr. Covington: Now if the Court please, I offer this map in evidence, Defendants Exhibit No. 27.

Q. Now, Mr. Hulsey, please take this pointer and point out the place in which you worked the last work you did there? A. The last work I did?
Q. Yes, sir.
A. Now, I don't know,—I am not very familiar with the map and I am not any [surveoyr], but the last work I did there was at the fifth west.
Q. Where is that fifth west? Is that the fifth west running in that direction (indicating on map)?
A. I am not very familiar with this map.

The Court: I do not think there has been sufficient foundation laid for this map.

Mr. Covington: I asked him if it was a map of the mine and he said it was.

The Court: He says he is not familiar with the map, but if Plaintiffs want it in all right.

Mr. Covington: I withdraw the offer.

Q. Did you work in a mine located on this property?
A. Yes, sir.
Q. Did the company that was operating it abandon it, and if so, for what purpose?

Mr. McDonough: That is objected to. This is another mine.

The Court: It calls for the conclusion of the witness.

Mr. Covington: This is the 130 acre tract of land which the plaintiffs claim was valuable, adjoining this Cororado property.

The Court: What is the objection?

Mr. McDonough: I did not know it covered the 130 tract.

4154 Mr. Covington: That was after. I will show that it does.

The Court: What was your objection?

Mr. McDonough: The objection was that it referred to the Smokeless Fuel Company's mine and not one of the mines in controversy here, but if it be true that it covers the 130 acre tract of land, then the objection would not be well taken. We make the further objection that this witness doesn't show sufficient knowledge to qualify him.

The Court: That objection is sustained. There is no foundation laid.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Q. How long have you been working in mines, Mr. Hulsey?
A. I have been working in mines something like 24 years.
Q. In what section of the country?
A. Well, in Arkansas and Oklahoma.
Q. In Arkansas and Oklahoma? A. Yes, sir.
Q. Have you been digging coal through those years in the mines? A. Yes, sir.
Q. Are you familiar with the entries and air work and slope work and also with the character of the coal in that particular mine in this field?
A. In this particular No. 3 mine you have reference to?
Q. The one I referred to awhile ago. A. Yes.
Q. Do you know bone coal from any other kind of coal?
A. Yes, sir, I think I do.
Q. What experience have you had with that?
A Well, I have had a good bit of experience with the bone coal around this section of the country.
4155 Q. Are you familiar with the slate in coal, that is the slate and dirt and stuff in coal? A. Yes, sir.

Q. How many mines have you worked in in this county?
A. Well, I could not call to memory just exactly how many at the present time, I couldn't recall how many different mines, in this county.
Q. Give us an idea of the mines and where they are located.
A. I have worked in, I guess as much as seven or eight or ten different mines in the county,—six or seven or something like that. I could not call them to memory just exactly.
Q. Located in the vicinity of the mine here referred to?
A. Yes, sir.

Mr. Covington: Now, your Honor, I think that sufficiently qualifies him to testify to the nature and character of the coal in these entries.

The Court: Yes, but it does not qualify him to testify as to why they quit work there.

Mr. Covington: We will have the superintendent here directly.

[Q.] To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Q. What was the nature and character of the coal in the entries which you were working at the time when you quit in 1913?

Mr. McDonough: That is objected to because the question is addressed to the witness as to the Smokeless Company's property, and it has no bearing on the Coronado's Company's property.

(No answer.)

Q. Were the tracks pulled and the property abandoned by the Smokeless Fuel Company?

4156 Mr. McDonough: That is objected to for the same reason.

The Court: I apprehend that is a slope worked by the Smokeless Fuel Company and I do not know whether there is any question between that and the workings of the Bache-Denman property.

Mr. Covington: This is the 130 acre tract,—the lease held by the Coronado Coal Company adjoining this property.

The Court: Yes, I know.

Mr. Covington: Now, this property had been operated by this Smokeless Fuel Company prior to that time. I believe in the fall of 1913 the Coronado obtained that lease from this fuel company. Now I want to show that the company, after driving the entries into this property 575 feet, found that the coal was not of any value and that they pulled their tracks and abandoned the property. Now they place a value on the lease on the 130 acre tract.

The Court: I do not think you can show that by a man that worked in the mine. But you can show what kind of coal it was. That would be valuable only as it would show that the testimony of the plaintiffs with reference to their development was untrue. I think you may proceed and show the character of the coal.

Mr. McDonough: It is objected to because there is no showing this has any reference to the Coronado Mine.

The Court: Unless it is so shown it will be stricken out.

The Court is not sure about it now and I will assume this is on the 130 acre tract, at the present time. The objection is overruled, let the witness answer the question.

To which ruling of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Covington: I withdraw it for the present, your Honor. Stand aside.

(Witness excused.)

4157 JAMES DOYLE, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. State your name. A. James Doyle.
Q. You are commonly called Red Doyle? A. Yes, sir.
Q. Where do you live, Mr. Doyle?
A. Montana, Arkansas.
Q. How long have you lived in Montana?
A. I just moved back there in April.
Q. What is your occupation? A. Miner.
Q. How long have you been engaged in mining?
A. About 30 years.
Q. Mr. Doyle, do you know where you were on the 17th day of July, 1914? A. Yes, sir.

Q. State to the jury where you were at that time?
A. In Kansas City, Missouri.
Q. How do you know?
A. I was on the conference committee, helping to make a contract for the miners of the Southwest.
Q. And at what hotel in that city did you stop?
A. I stopped at the Cordova Hotel.
Q. Have you any record that you kept at that time,—I mean a record of the conference that was being held, between the operators and miners at that time?
A. The interstate records show that I was secretary of the conference myself, and Mr. McKinley, deceased now, was the President.
Q. It has been stated here by a man named Green, of McAlester, that you followed him down the streets of Hartford on the 17th of July, 1914, and told him that you were financial secretary of the local there, and that he couldn't go out
4158 to Prairie Creek. Did you ever work in Hartford?
A. I never worked a day in Hartford in my life.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:
Q. Where do you live? A. Montana, Arkansas.
Q. Did you ever work in the Hartford Valley?
A. Yes, sir, what is termed as Hartford Valley.
Q. What did you say your name was? A. James Doyle.
Q. Jim Guard? A. Doyle,—D-o-y-l-e.
Q. Where did you work in the Hartford Valley?
A. I worked at what they call No. 4 Prairie Creek.
Q. When did you work there? A. 1912.
Q. When did you quit working there? A. In 1912.
Q. Did you live at Midland at that time?
A. Yes, sir, in Midland.
Q. Where were you working in June, 1917?
A. In June, 1917?
Q. 1914? A. At No. 7, Dewar, Oklahoma.
Q. Where is Dewar? A. In the state of Oklahoma.
Q. How far from Hartford, Arkansas?
A. Well, sir, I would judge, the way you have to go to it, it would be about 150 or 160 miles; you have to go to Muskogee, Oklahoma, and from there down.
Q. What county is Dora in? A. Dewar.
Q. What county is it in? A. Okmulgee.
Q. Is it near Okmulgee City? A. 14 miles.
Q. The M. O. & G Railroad runs through that town?

A. Yes, sir.

Q. And direct connection from there to Muskogee?

4159 Q. Yes, sir.

Q. And direct connection from Muskogee to Hartford over the Midland Valley? A. Not that I know of.

Q. You know that the Midland Valley runs from Hartford, Arkansas, to Muskogee? A. Yes, sir; but not direct.

Q. It comes to the Frisco Junction and then runs direct to Muskogee? A. Yes sir.

Q. How long had you been working at Dewar, Oklahoma, at that time?

A. I went there, I had been there in the neighborhood of about 18 months.

Q. Did you work there during the whole of the month of June, 1914?

A. From the 8th day of June, 1914, I went to Kansas City, Missouri, to be a party to making that contract.

Q. You worked then up to the 8th day, did you, and left your home on the 8th to go to Kansas City? A. Yes, sir.

Q. And remained in Kansas City how long?

A. Remained in Kansas City until September, until the contract was completed.

Q. Didn't come home in the meantime at all?

A. I came home once, and went to Dow, Oklahoma, to settle a strike there.

Q. When was it you came home?

A. I disremember the month I went to Dow.

Q. Remaining then from June 8th until September, 1914, and was at home one time? A. Yes, sir.

Q. And what do you mean by home, Dewar? A. Yes, sir.

Q. Were you at Hartford, Arkansas, at any time during that time? A. No, sir.

Q. Did you ever work at Midland, Arkansas?

A. Yes, sir.

Q. When did you work there?

A. I went to No. 6 Midland, I think, in 1910.

4160 Q. How long did you work there at Midland, at No. 6?

A. Well, sir, I worked there up to when they shut down, in the neighborhood of eight or ten months, I believe it was, I was there when they shut it down.

Q. Did you live at Midland while working at No. 6?

A. Yes, sir, lived at Midland.

Q. Did you have any relatives living at Midland during 1914?

A. No, sir.

Q. Are you a married man? A. Yes, sir.

Q. Were your family living at Dewar in June, 1914?

A. Yes, sir.
Q. And July, 1914? A. Yes, sir.
Q. And as I understand you, you were not at Hartford during June or July, 1914? A. No, sir.
Q. Were you in Arkansas anywhere during that time?
A. No, sir.
Q. Did you work at any other mine other than No. 6 Midland?
A. In the state of Arkansas?
Q. What? A. In this state?
Q. Yes.
A. Yes, sir, I worked at Greenwood and at Bonanza.
Q. Anywhere else?
A. And at what they called Mammoth Vein No. 1.
Q. Did you hold any office in the local union at Midland?
A. Midland, no.
Q. Did you hold any office in any of the locals in Arkansas?
A. Yes, sir.
Q. What office did you hold?
A. Not an office, I served on the pit committee is the only office I filled.
4161 Q. Did you hold any other office? A. No, sir.

Mr. McDonough: That is all.

Witness excused.

Mr. Covington: We offer in evidence the book marked by the reporter defendants' Exhibit 28, which shows the constitution of the United Mine Workers of District 21.

Mr. Drinker: Except the index?

Mr. Covington: Just the constitution.

(The instrument so offered in evidence, marked Exhibit 28, is in the words and figures following, to-wit):

Exhibit 28.

Constitution

United Mine Workers of America

District 21.

Preamble.

There is no truth more obvious than that without coal there could not have been such marvelous social and industrial progress as marks present day civilization.

Believing that those whose lot it is toil in the earth's recesses, surrounded by peculiar dangers and deprives of sunlight and pure air, producing the commodity which makes possible the world's progress, are entitled to protection and the full social value of their labor, we have formed "The United Mine Workers of America" for the purpose of establishing by lawful means the principles embraced in the body of this constitution.

Constitution.

Article I.

Name.

4162 This organization shall be known as the Twenty-first District of the U. M. W. of A. It shall not be committed to or favor any particular religious creed, neither shall affiliation herewith interfere with the religious or political freedom of its members.

Article II.

Object.

First. The object of this union shall be to unite in one organization regardless of creed, color or nationality—all workmen eligible to membership employed in and around the coal mines, coke ovens and coal washers, for the purpose of obtaining the following as set forth:

Second: To increase the wages and improve the conditions of employment of our members by legislation. conciliation, joint agreements or strikes.

Third: To demand that not more than eight hours from bank to bank in each twenty-four hours shall be worked by members of our organization.

Fourth: To strive for a minimum wage scale for all members of our craft.

Fifth: To provide for the education of our children by lawfully prohibiting their employment until they have, at least, reached 16 years of age.

Sixth: To secure equitable statutory old age pension and workmen's compensation laws.

Seventh: To enforce existing just laws and to secure the repeal of those which are unjust.

Eighth: To secure by legislative enactment laws protecting the limbs, lives and health of our members establishing

our rights to organize; prohibiting the use of deceptions to secure strike breakers; preventing the employment of
4163 privately armed guards during labor disputes; and such other legislation as will be beneficial to the members of our craft.

Article III.

Jurisdiction.

Section 1. The jurisdiction of this District shall extend throughout the States of Arkansas, Oklahoma and Texas, and all Local Unions shall be subject to the laws and rulings of the organization.

Sec. 2. In all questions of disputes, appeals and grievances affecting our members, (unless restricted by Joint Agreement) the decisions of the District Executive Board shall be final and binding until reversed by a District Convention or International Executive Board or Inter-National Convention.

Article IV.

Officers.

Section 1. The Officers of this District shall be one President, one Vice-President, one Secretary-Treasurer; and four Executive Board Members who shall constitute the Executive Board; also a Board of Auditors consisting of three members.

Article V.

Qualifications of Officers.

Section 1. Any member in good standing in the organization shall be eligible to hold office if he has been a member of a Local Union in the District one year preceding the election and has had five consecutive years' experience in and around the coal mines prior to the election or has been under the employ of the U. M. W. of A. and has never been found guilty of misappropriating any of the organizations' funds.

Sec. 2. No member shall hold two salaried offices in
4164 the District Organization at any one time or any affiliated union, except as delegate to the A. F. of L. convention.

Article VI.

District Officers' Salaries.

Eection 1. The President's salary shall be $111.10 per month and all legitimate expenses. The Vice-President's salary shall be $105.26 per month and all legitimate expenses.

The Secretary-Treasurer's salary shall be $111.10 per month and all legitimate expenses.

Sec. 2. The District Executive Board Members and Auditors shall receive $3.90 per day and all legitimate expenses when employed by the President to work for the organization.

Sec. 3. That in the event of the miners receiving any increase, the officers to receive the same.

Article VII.

Duties of Officers.

Section 1. The President may preside over all regular and special conventions and meetings of the Executive Board and shall sign all official documents when satisfied of their correctness.

Sec. 2. He may, with the consent of the Executive Board, appoint such organizers and field workers as in his judgment may be required to serve the best interests of the organization, such appointees shall be bona fide members of the U. M. W. of A.

Sec. 3. He shall fill by appointment, all vacancies occurring in any of the elective offices with the consent of the Executive Board, providing such offices are declared vacant within nine months from date of general election. Otherwise he shall immediately order an election to fill such vacancy.

Sec. 4. He may suspend or remove any officer for in-
4165 subordination or for just and sufficient cause.

Sec. 5. He shall appoint from among the properly elected delegates to regular and special conventions the committees necessary to transact the work of the convention. Delegates shall be notified of their assignments on committees sufficiently early to enable them to meet at headquarters and be prepared to render a report on the first day the convention convenes. But if the convention is to consider charges regularly filed against the President then the grievance committee shall be elected by the convention.

Sec. 6. He shall send out in circular form to all local unions six weeks prior to the District Convention such recommendations as he may deem wise to be acted upon by the convention, so delegates may obtain an expression from their constituents relative to the wisdom of such recommendations.

He shall file with the District Secretary-Treasurer, a copy of all written Joint Decisions and cause the same to be sent to all local unions.

Sec. 7. He shall devote his entire time and attention to the affairs of the organization, exercising general supervision over the same in the absence of Board meetings, and render a full and complete report of his work to the regular District Convention.

Duties of Vice-President.

Sec. 8. The Vice-President shall act as general organizer under the direction of the President, and shall discharge such other duties as may be assigned to him in the absence of the President. He shall assume all the duties and responsibilities and shall succeed to that office in case of death or removal of the President, as provided for in Section 3 of this
4166 Article.

Duties of Secretary-Treasurer.

Sec. 9. The Secretary-Treasurer shall have charge of and preserve all books, documents and effects in the District office, except such records as properly belong to the President, and shall record the proceedings of all conventions and meetings of the Executive Board, and shall keep copies of all important letters sent out by him.

Sec. 10. He shall receive and receipt for all money, pay all bills and current expenses, where attested to by the President and shall prepare and submit to all locals a semi-annual statement showing salary and expenses of each employee in separate items, and report all moneys received and disbursed.

Sec. 11. He shall give a bond in the sum of ($30,000.) secured by a reliable Surety Company for the safe keeping of all moneys entrusted to him, such bond must be approved by the District Executive Board and deposited with the President. He shall not have more than ($5,000.) subject to his order at any one time.

Sec. 12. He must deposit all funds in excess of $5,000 in banks giving interest bearing certificates of deposits, subject to the orders of the District Executive Board. He shall semi-annually send to all locals in good standing the pass-word.

Sec. 13. The books of the Secretary-Treasurer shall be closed the last day of the month previous to the month the regular convention is held.

Sec. 14. He shall employ such assistance as mey be necessary to conduct the affairs of his office and shall have all District printing done subject to the approval of the District Executive Board, and shall perform such other duties as may be assigned to him, or as elsewhere herein provided.

4167 Duties of the District Executive Board.

Sec. 15. The District Executive Board shall execute the instructions of the District Convention and between conventions shall have full power to direct the workings of the organization, and shall have power to suspend or remove the President for insubordination or for just and sufficient cause.

Sec. 16. The Executive Board shall be convened by the President or by request of a majority of the members thereof, and they shall have power to draw upon and use the defense fund only in case of strikes or lockouts; also to levy and collect such assessments as they deem necessary to safeguard the interest of the organization.

Sec. 17. The Board shall hold in trust for the United Mine Workers all moneys deposited by the Secretary-Treasurer in the name of the Executive Board, and under no circumstances shall said money be drawn except upon written order of two-thirds of the members of the Board.

Sec. 18. All proposed legislation and investigations pertaining to laws in the interest of the miners, shall be under the control and jurisdiction of the District Executive Board.

Duties of Auditors, Tellers, and Credential Committees.

Sec. 19. The Auditors shall meet semi-annually and shall have full power to make a through inspection of the office of the Secretary-Treasurer, as it applies to the Organization's funds, and shall immediately report any irregularities to the District Executive Board. They shall audit the books and accounts and make a full and complete report of their findings to the Local Unions of the District.

Duties of Tellers.

4168 Sec. 20. The Tellers shall prepare and submit to the Local Unions of the District their report of the election showing the number of legal votes cast for the candidates to the respective officers, which shall be an official announcement of the election, but should they for any reason refuse to tabulate the vote of any local, their reasons must in every instance be shown in their report, submitted to the Local Unions, and all contests growing out of the report shall be submitted to the regular constitutional convention, which body shall have power to decide before ratifying the Tellers' report.

Duty of Credential Committee.

Sec. 21. The credential committee shall examine the delegates' credentials, prepare and submit a report on the convening of the convention, of all delegates entitled to seats, and the names of delegates whose seats are in contest shall be withheld from the committee's report until the contest is decided.

Sec. 22. The Auditors shall also act as Tellers and Credential Committee and shall meet at headquarters in sufficient time to enable them to make their report upon the convening of the convention.

Article VIII.

Nomination and Election of Officers.

Section 1. The President, Vice-President and Secretary-Treasurer, International Board Member and Auditors, shall be elected by a majority of all legal votes cast, in a referendum election. District Executive Board Members shall be elected in the same manner by a majority of legal votes cast in their respective Board Member Districts. One Sub-District Board Member shall be elected from Arkansas; two Sub-District Board Members shall be elected from Oklahoma, and one Sub-District Board Member shall be elected from
4169 Texas.

Sec. 2. In the event no candidate for the respective offices receives a majority vote on the first ballot, another election shall be held and the names of the two candidates receiving the highest number of votes for the respective offices shall appear on the ballot for Second Election.

Sec. 3. The term of office shall begin April 1st following their election and the next election shall be held the second Tuesday in December, 1912. The officers elected shall serve for a period of two years, and future elections shall be held each alternate year thereafter.

Sec. 4. The District Secretary-Treasurer shall prepare nomination blanks and send them to the Local Unions not later than twenty weeks before the date of election, and the local recording secretary shall fill in the names of members nominated by the Local Union for the various offices and forward same to reach the District Treasurer's office not later than fifteen weeks before date of election.

Sec. 5. The District Secretary-Treasurer shall within ten days thereafter notify all members who have been nominated and ask if they are candidates.

Sec. 6. Any nominee notified in accordance with Sec. 5 of this article who desires to become a candidate must have his official notice attested to by the officers of his local union and the seal attached and return said notice to the District Secretary-Treasurer at once.

Sec. 7. No nominee filing his acceptance with the District Secretary-Treasurer shall be allowed to withdraw his name.

Sec. 8. The District Secretary-Treasurer shall prepare ballots, giving the names and places of residence of those accepting nominations, also showing the positions for
4170 which the various nominees are candidates and forward them to the Local Unions in sufficient numbers to supply each member not later than eleven weeks prior to the date of election, with two tally sheets, one return sheet and one envelope and return sheet must accompany the ballots sent each Local Union.

Sec. 9. The Secretary of any Local Union failing to receive ballots, tally and returning sheets from the District office within ten days prior to the regular District and Special Election shall notify the Secretary-Treasurer of same, who shall immediately forward ballots, tally and returning sheets to the Local Unions affected.

Sec. 10. Local Recording Secretaries must notify their members by posting notices and otherwise, one week prior to the dates set for the nomination and election of District officers.

Sec. 11. Each Local Union shall designate, at a regular meeting, where its election shall be held and the place so designated shall be the official voting place of such Local Union and under no circumstances shall the votes of any local be tabulated, in any place other than that designated by the Local Union, and no member shall be allowed to interfere with the official Tellers during the tabulation.

Sec. 12. No member shall be allowed more than one vote for any candidate, nor shall the local Tellers record the vote of any member who is not present at the time the election is held, except officers, organizers and workers in the field away from home, whose votes shall be recorded if sent to the Secretaries of their respective Local Unions.

Sec. 13. Each Local Union shall elect from among its own members a committee of not less than three, nor more than six, three of whom must be the local President, Financial

and Recording Secretary, to act as Local Tellers,
4171 whose duty shall be to supervise the election and when requested instruct the members how to vote and tabulate the votes cast by the members for District offices, and enter on the "Return Sheet" furnished by the district Secretary-Treasurer for that purpose and the total number of votes cast for each candidate containing the signature of member voting. The correctness of the "Return Sheet" must be attested by the President and Recording Secretary of the Local Union.

Sec. 14. There shall be a day set aside for the election of District Officers and under no circumstances shall the ballot of any member of any local union be counted and recorded unless each vote or votes were cast at a regular voting place designated by the local union.

Sec. 15. Should it be proved that more votes are recorded on the return sheet than were actually cast by the members, the entire vote of the Local Union shall be thrown out by the Tellers and those responsible for the fraud shall be punished as hereinafter provided.

Sec. 16. After the votes have been tabulated and the return sheet attested, it shall be turned over to the recording secretary, whose duty it shall be to see that the return sheet is properly attested, enclosed in a special envelope furnished by the District Secretary-Treasurer for that purpose, and forwarded at once by registered mail to the District Secretary-Treasurer's office. Return sheets reaching District headquarters after January 1st shall not be tabulated by the District Tellers.

Sec. 17. The envelope for Return Sheets furnished the Local Unions must have the name and address of the District Secretary-Treasurer, and the following printed
4172 thereon:

From L. U. No. .....

Election Returns

Sec. 18. When the Return Sheets reach the District Secretary-Treasurer's office, he shall examine the envelope to see if they are intact, make a proper record of their receipt and deposit them unopened in a securely locked receptable provided for that purpose.

Sec. 19. Before turning the Return Sheets over to the Tellers, the Secretary-Treasurer with the Tellers, must check them with the record made upon the receipt, and the

Secretary-Treasurer shall take the Tellers' receipt for all Return Sheets turned over to them.

Sec. 20. The District Secretary-Treasurer shall be absolute custodian of the Return Sheets from time they reach his office until turned over to the District Tellers and during the interim of tabulation, and the same shall remain in his possession six months after the date of election.

Sec. 21. No member who is not a regular attendant of the meetings of his Local Union shall be allowed to act as a Local Teller of District Elections.

Note.—The term "Regular Attendant" shall mean a member who attends at least one-half of the meetings of his local union six months previous to the election.

Sec. 22. The District Tellers shall not count the votes of any local union that has cast more votes than the number of members each local paid per capita tax on to the District organization for the month preceding the one in which the election is held, unless a satisfactory explanation for so doing accompanies the Return Sheet of the Local Union so voting. Neither shall they count the votes of any Local Union that is not in good standing with all branches of
4173 the organization or whose Return Sheet is not attested as required by Section 13 of this Article.

Sec. 23. All contest in connection with the vote of any Local Union must be filed after date of election, by some responsible and reputable member of the Local Union whose vote is contested.

Sec. 24. Local officers of all Local Unions shall be required to carefully preserve all ballots which have been cast for District officers of their respective Local Unions for a period of six months after the date of election.

Sec. 25. No number other than the Local Tellers shall be allowed to loiter around the voting place or to interfere in any way with the election of any Local Union.

Sec. 26. Local Tellers shall be held personally responsible for any irregularities that may take place in their Local Unions during the election of District officers.

Sec. 27. Any local officer or Teller failing to obey the laws regulating District elections, or any member or members interfering with local officers of Tellers during the discharge of their duties in connection with the District Elections, or any member or members resorting to dishonest

or questionable practices to secure election or defeat of any candidate for District office, shall, upon conviction, be fined $50,00. Fines so collected shall become a part of the District Defense Fund and all trials shall be conducted as provided for in Article 13.

Sec. 28. Upon the signed request of 10 per cent of the entire membership, the Secretary-Treasurer shall send out a petition to each Local Union for the recall of any officer elected by the District guilty of malfeasance in office. Said petition to accompany charges for which a recall is asked and defense of those charged.

4174 If within thirty days after the petition is sent out, 30 per cent of the entire membership send a signed request to the Secretary-Treasurer, the District Executive Board shall call an election for the recall of any District officer so charged.

Said election to be held in accordance with the election laws of the organization.

Article IX.

Conventions.

Section 1. The regular District Convention shall be held biennially on the third Tuesday in April at such place as may be determined by the proceedin convention. The District Secretary-Treasurer shall issue a Call six weeks prior to date of its convening.

Sec. 2. Representatives to the District Convention shall be elected directly from Local Unions they represent, and shall have one vote for one hundred members, or less, and one additional vote for each one hundred members or a majority fraction thereof, but no delegate shall be allowed more than five votes.

Sec. 3. Representations shall be based upon the average membership of the Local for the last three months upon which payment has been made previous to the month in which the convention is held.

Sec. 4. Any Local Union having one hundred members or more in good standing must be represented in the convention or pay to the District Secretary-Treasurer a fine of $25.00 for each one hundred members in good standing in the Local Union, unless exonerated by the District Executive Board. This section shall not apply to Local Unions whose members

have been idle for one month or more prior to the convention on account of strikes, suspensions or lockouts.

4175 Sec. 5. Local Unions of less than one hundred members may combine with similar Local Unions within a reasonable radius of each other in the same district, and elect delegates to represent them, but no delegates so elected shall be entitled to more than five votes in the convention.

Sec. 6. No Local Union shall be entitled to representation that is in arrears for per capita tax or assessments for two months preceeding the month in which the convention is held and which has not in every particular complied with the District constitution.

Sec. 7. No person who is not a bona fide member of a Local Union employed in or around the mines or by the organization shall be eligible to act as delegate.

Sec. 8. No appointed employe of the organization shall be a delegate from any Local Union other than his own.

Sec. 9. Any member accepting a position other than that of a mine worker shall not be eligible to act as a delegate to any District Convention or to represent the United Mine Workers in a central body or State Federation of Labor Convention, while holding such position, but accepting a position with the United Mine Workers or any other affiliated organization, shall not be construed as making a member ineligible to act as such.

Sec. 10. The Secretary-Treasurer shall furnish the Local Union with credential blank in duplicate, which must be attested as required on the blanks. The duplicate shall be retained by the delegate and the original forwarded to the District Secretary-Treasurer, and no credentials shall be accepted later than five days prior to the date for convening the convention.

Sec. 11. The Credential Committee shall not transfer
4176 votes to any delegates unless authorized by the Local Union to do so.

Sec. 12. Delegates to the District Conventions must be elected at official meetings of Local Unions after the call for the convention is received and has been read to the Local Union. The local recording secretaries shall post notices, signed by himself and the local president, at the mine at least three days prior to such meetings, stating that delegates are to be elected on a certain date. Delegates must receive a majority vote of the members present at such meetings, stating that delegates

are to be elected on a certain date. Delegates must receive a majority vote of the members present at such meeting, and no meeting other than the one first advertised and called in accordance herewith, shall be recognized as an official meeting for the election of delegates.

Sec. 13. Local officers failing to read the call for a convention to their Local Union, and to post notices in accordance with Section 12 of this Article, shall upon conviction be removed from office, and shall not thereafter be allowed to hold office in the organization for two years.

Sec. 14. When any delegate's credentials are to be contested, notice of such contest shall be sent to the District Secretary-Treasurer not later than ten days prior to the date for convening the convention; but any delegate whose credentials are contested may be unseated at any time during the convention.

Sec. 15. All resolutions, grievances and constitutional amendments to be considered by the convention shall be sent to the District Secretary-Treasurer not less than seven (7) days prior to the date set for the convention, who will sort and distribute them among the chairman of the various and proper committees.

4177 Sec. 16. Resolutions bearing on different subjects shall be written on separate papers.

Sec. 17. The District Convention shall not consider internal appeals or grievances unless they have been previously considered by the lower tribunals of the organization.

Sec. 18. The District organization shall pay the transportation of delegates to and from the District Conventions on the following basis: Local Unions of from ten to five hundred members shall be entitled to transportation for one delegate and one additional delegate for each additional one hundred members or fraction thereof, provided such fraction is not less than twenty-five members. Where Local Unions combine, as provided in Section 5 of this Article, shall be entitled to transportation for one delegate for each one hundred members or fraction thereof, provided such fraction is not less than twenty-five members. Where railroad certificates cannot be secured by delegates, they shall furnish receipts for fare paid.

Sec. 19. No District officer other than the President and Secretary-Treasurer shall be allowed to attend any convention other than the regular or special District Convention un-

less the Local Union employing said officer pays his salary and expenses.

Special Conventions.

Sec. 20. Shall be called by the President when so ordered by a majority of the District Executive Board.

Sec. 21. One-fourth of the membership of this District shall call a Special Convention, the same to be determined at a regular meeting of the Local Unions and only members present and voting in favor of said call shall be counted and recorded and all Local Unions shall forward their vote, together with the reasons set forth, for calling a Special Convention. The vote of all Local Unions to be certified to by
4178 the President and Recording Secretary and seal attached.

Sec. 22. The District Secretary-Treasurer shall compile the total vote cast for a Special Convention and issue a call for the same together with the reasons set fourth as provided for in Section 21 of this Article. The convention shall have no authority to consider any question other than that which is specifically stated in the call.

Article X.

Revenue.

Sec. 1. The revenue of this District shall be derived from the Local Unions Vis: 25 cents per capita tax per month, fractional members pro rata. The funds shall be used to pay the officers' expenses, organizers, office expenses, and cost of securing better legislation for the benefit of the Miners. The strike or defense fund shall hereby be created by an assessment of 35 cents per month, per member, said fund shall be used for no purpose other than strike, lock-outs or suspension.

(Note.—The word lock-out or suspension shall not apply to members who are thrown idle on account of mines being abandoned or shut-down.) Said fund shall, after a period of six weeks, be distributed to all members out of employment, at the rate of $3.00 per week, per member, until the defense fund is exhausted.

Sec. 2. An Old Age Pension fund is hereby created by an assessment of 15c per member, per month, together with all interest received from money on deposit in District Treasury. Said fund to be disbursed as hereinafter provided.

Sec. 3. All members in good standing in District No. 21 for 5 years preceding Jan. 1, 1913, shall receive $3.00 per
4179 week per member payable the first Monday in each month, providing he is 60 years of age and discontinues working in the mines, or has been physically disabled from performing further labor in or around the mines and has no other means of support.

Sec 4. Any one becoming a member of District No. 21 on or after Jan. 1, 1913, shall not be eligible to receive any assistance from this fund until he has been a member in good standing in the organization for 5 years from Jan. 1, 1913.

Note.—The word "means or support" shall not prohibit any member otherwise eligible to draw his weekly allowance until it is proven conclusively by the local union wherein said member holds his membership that his financial standing is sufficient to protect him against further labor in the mines.

Sec. 5. All applicants for pensions must be certified to by the local President and Secretary after the same has been approved by the local union, giving such applicant's age, standing in the organization and such other information necessary to determine the legality of his claim as herein provided.

All applications shall be filed with the District Secretary-Treasurer who shall have full charge of the distribution and care of said fund, subject to the orders of the District Executive Board.

Sec. 6. Should it develop that applications have been approved in violation of the provisions of Sec. 2. of this amendment, the payment of same shall be immediately discontinued upon written notice filed with the District Secretary-Treasurer by the local union that said applicant holds membership in, or by the District Executive Board, after a hearing has been granted any member filing such information, and investigation made of same.

4180 Sec. 7. Any member leaving this District shall waive his claim in every respect with said fund. This amendment to be in effect on and after Jan. 1, 1913.

Sec. 8. No Local or locals shall be exempt from paying per capita tax, or assessment unless they have been idle for one month. In all cases where Local Unions desire exoneration from dues, such requests shall be signed by the President, Secretary and Mine Committee and approved by the

President and Secretary of the District and a report shall be made each week, giving the number and mines of idle men, in the place of the regular monthly financial reports, as long as members remain idle.

Sec. 9. The local secretary shall fill out and forward to the District Secretary-Treasurer on or before the 25th of each month, a report of all members in good standing in the Local Union on the 1st day of that month, together with all taxes and assessments due to the District office for the same.

Sec. 10. Should it be proved that any local financial Secretary had failed to report monthly the full membership of his local to the District Secretary and to send in the full amount of per capita tax on the same number of members that have paid dues to the Local Union, together with the full amount of assessment due the District organization, the Local Union sall be suspended from all privileges and benefits until the deficiency is made good, and the officer responsible for such failure shall not be allowed to again hold office in the organization.

Sec. 11. In the filing of the monthly report the local secretary shall report to the District office on blanks furnished for that purpose the amount of money paid in and the number of members reported to the national Secretary, the amount of money and number of members reported to the District Secretary-Treasurer and shall sign a certifi-
4181 cate showing that the report is for the full number of members in good standing in the local.

Sec. 12. Any member defrauding the organization of dues or assessments, by failing to receive a check number will be fined five dollars ($5.00).

Sec. 13. The revenues of this District shall not be used for the payment of expenses incurred by any committee or members appearing before the legislative bodies of Arkansas, Oklahoma and Texas unless officiently authorized by the District President. It shall be the duty of the District President to appoint a committee to appear before the Legistative bodies of the above named states to represent the miners' interests in encouraging the passage of mining legislation. Said committee shall act in conjunction with the Legislative committee of the State Federation of Labor.

Article XI.

Local Unions—How Formed and Governed.

Section 1. The membership of Local Unions shall be composed of workmen skilled and unskilled, working in and around coal mines, coke ovens and coal washers, except Mine Foreman, top foreman, operators, commissioner, boy scouts, persons engaged in the sale of intoxicating liquors, or members of any detective association, shall not be eligible to membership.

Sec. 2. No mine shall be under the jurisdiction of more than one Local Union neither shall separate locals be established for coal washers or coke oven employees, unless there is no local union having jurisdiction over some adjacent coal mine to which they can belong.

Sec. 3. Each Local Union shall have the right to penalize its own members or debar from membership any applicant therein. Any member penalized or any person
4182 so debarred shall have the right of appeal in consecutive order to the next branch in authority, any one of such branches shall have authority to reverse the decision of the Local Union, and any Local Union debarring any applicant from membership shall give such appliant written reasons for his debarrment.

Sec. 4. Should any Local Union be dissatisfied with such decision (unless prohibited by Joint Agreement) they shall have the right of appeal to the branch next in authority until a final decision is reached, as provided in Section 2 of Article 3.

Sec. 5. When it is finally decided that any Local Union has done an injustice to any member, or applicant for membership the branch responsible for the injustice must compensate such member or applicant for time lost and expense incurred while defending his rights, and any such defendant shall be restored to all former rights and privileges in the organization.

Sec. 6. The initiation fee for the practical miner shall be $10.00. The non-practical miners $50.00. For top laborers $10.00. Any top laborer desiring to go into the mine shall pay an additonal fee of $40.00.

Sec. 7. The initiation fee for miners' and widows sons and orphans 16 years of age shall be $2.50

Sec. 8. Boys other than miners' or widows' sons 17 years of age shall pay $10.00 initation fee provided that where

the State Law prohibits the employment of boys under 17 years of age they may be admitted to membership by paying an initiation fee of $2.50 and in no case shall any Local Union donate any part of the initiation fee back to the member.

Sec. 9. Any member or members of the organization misrepresenting the age, occupation or experience of any
4183 person making application for membership in any Local Union shall, upon conviction, be fined $10.00.

Sec. 10. Any member becoming three months in arrears for dues and assessments, unless officially exonerated from the payment of the same, shall forfeit his membership and can be reinstated only by paying an initiation fee in accordance with the laws of the District.

Sec. 11. Any member attending school as a pupil, shall be granted leave of absence by his Local Union, and on returning to work in the mine, shall be admitted to membership without the payment of initiation fee.

Sec. 12. Any member charged with having abused the use of our pass-word shall, upon conviction, be fined $5.00.

Sec. 13. Any member carrying news to any person or persons outside of the hall shall be fined not less than $5.00. This shall not include mine committee.

Sec. 14. When a mine is abandoned indefinitely and all the members of the Local definitely and all the members of the Local Union having jurisdiction over it have gone to work elsewhere, the local recording secretary must notify the District Secretary of the fact and the District Secretary must make application to the International Secretary-Treasurer for exoneration for the Local Union for each month the mine is idle.

Sec. 15. No Local Union shall for any reasons divide its funds among its members. Any Local Union using its funds for other than legitimate purposes shall be fined double the amount so used, the fine to be collected by order of the District Executive Board and deposited in the District Defense Fund.

Sec. 16. All local officers and Mine Committee-men shall be elected the last meeting in June of each year by a
4184 majority vote of members present and shall serve until their successors are elected and qualified.

Sec. 17. The date of Local Elections for local officers, mine committement and check-weighmen must be generally adve:-

tised among the members at least one week previous to the date of election.

Sec. 18. No person shall be eligible to act as a local officer who has not been a member of the Local Union at least six months. This section is not intended to apply to newly organized locals and Mine Committeemen.

Sec. 19. No person shall hold two offices in a local Union at the same time. This section shall not apply to mine committee-men or check-weighmen.

Sec. 20. The candidates for the position of check-weighman shall be a member of the U. M. W. of A. six months prior to their election and no member shall be eligible to vote who does not contribute directly to his support. The term and method of election of check-weighmen shall be left to the Local Union.

Sec. 21. The check-weighman shall keep a record of all men employed in and around the mines and perform such other duties as may be assigned him. He may be removed for just and sufficient cause any time after a fair and impartial trial.

Sec. 22. All Local Unions are required to affiliate with central body of State Federation of Labor, if such federations are chartered by the American Federation of Labor.

Sec. 23. All local officers entrusted with the finances of the organization must give a bond insuring a faithful performance of their duty, the amount of said bond to be determined by the Local Union, said bond must be secured from a reputable surety company.

4185 Sec. 24. The local seal shall remain in the custody of the local recording secretary and that officer shall be responsible for any misuse of the same.

Sec. 25. Any member going to work in a non-union mine shall forfeit his membership and can be reinstated only by complying with the laws relating to such offense in the Local Union where said offense is committed, unless such work is done with the consent of the President of the District where the union mine is located.

Sec. 26. Any member leaving one locality and securing employment in another shall deposit his transfer card with the check-weighman or mine committee or agree to sign a check-off for Ten Dollars ($10.00) and failing to deposit his transfer card within ten days thereafter shall forfeit the said $10.00

unless it can be proven by said member or members that they are in no way responsible for not depositing their cars as herein prescribed.

Sec. 27. Any member of members of any Local union thrown out of employment by any local officer failing to promptly discharge his duties, said local officer responsible shall compensate the member or members for time lost.

Sec. 28. No member holding a transfer card shall be entitled to strike benefits (where such are paid) from the Local Union issuing the card, until such card has been redeposited with said local, and then only from the date on which the card was redeposited.

Sec. 29. Any transfer card that is lapsed for a period of three months shall be invalid and shall not admit the holder to membership in any Local Union.

Sec. 30. Any member withdrawing his transfer card
4186 from a local union shall be known as a member of the local issuing the card until it is deposited with some other local or until the card is lapsed.

Sec. 31. No member shall accept compensation from any one he takes into the mines to work with him. Anyone found guilty of such offense shall be fined for the first offense the sum of $50.00, for the second offense shall be expelled.

Sec. 32. The Unions when electing officers or changing officers of the local shall notify the National and District officers within five days after such changes are made.

Sec. 33. No local shall in any way deprive a member on account of his absence from being eligible as a delegate to any convention when he is on duty serving the organization.

Sec. 34. Any member proven guilty of pawning his transfer card for money shall be expelled from the organization and his name published in the U. M. W. of A.

Sec. 35. No member of the United Mine Workers in District No. 21 shall be allowed to collect financial assistance on a transfer card or letter of recommendation, unless the right to collect such assistance is endorsed by the District President.

Sec. 36. Any local Union, Mine Committee, or Member, referring any dispute or grievance, shall first secure all information upon question in the dispute, before grievance shall be presented to the District officials; failing to do so said District Officers shall disregard grievance until evidence is furnished.

Any local union, mine committee or member violating the provisions of this section, shall be subject to a fine of $5.00. Said fine to be collected by order of the district Executive Board.

Article XII.

4187 Strikes.

Section 1. When trouble of a local character arises between the members of Local Unions and their employer, the Mine Committee and officers shall endeavor to affect an amicable adjustment, and failing they shall immediately notify the officers of the District and said District officers shall immediately investigate the cause of complaint, and failing to effect a peaceful settlement upon a basis that would be equitable and just to the aggrieved members, finding that a strike would best subserve the interests of the locality affected, they may with the consent and approval of the District officers order a strike.

Sec. 2. Any Local Union striking in violation of the above provision will not be recognized or sustained by the District officers. Before final action is taken by the District upon questions that directly or indirectly affect the interests of the mine workers of another District or may require a strike to determine, the President and Secretary of aggrieved District shall jointly prepare, sign and forward to the National President a statement setting forth the grievance complained of, the action contemplated by the District, together with the reasons therefor, and await the decision of the National President and be governed thereby; and in all cases the Mine Committee and employees and all parties involved must continue to work pending an investigation and adjustment until a final decision is reached in the manner above set forth.

Sec. 3. Any Local Union, Committee or member acting in violation of Section 1, of this Article, shall be liable to expulsion or fine, subject to the discretion of the District Executive Board.

4188 Sec. 4. Any Local Union, member or members of the organization creating a condition which prevents the carrying out of the Joint Agreement in any locality or mine, shall be fined ten dollars ($10.00) each for such offense and refusing to pay same shall be expelled or charter revoked.

Article XIII.

Charges and Methods of Trials.

Section 1. When any officer of the organization other than local is charged with an alleged official offense against the or-

ganization or any of its members, the charge must be lodged with the Executive Board of the branch of which he is an officer and the decision of said Executive Board shall close the case insofar as such tribunal is concerned, but should the accused or his accuser be dissatisfied with the decision of the tribunal first trying the case, either shall have the right of appeal to the next highest tribunal in authority and so on until a final decision is reached, as provided in Section 2 of Article 3.

Sec. 2. When any local officer or any member not an officer is accused of violating any of the organization's laws or of any transgressions against the organization or any of its officers or members, the charge must be first lodged with and prosecuted before the Local Union of which the alleged offender is a member, and the decision of the Local Union of which the alleged offender is a member, and the decision of the Local Union shall close the case in so far as that tribunal is concerned, but should the accused or his accuser be dissatisfied with the decision of the trbinal first trying the case, either shall have the right of appeal to the next highest tribunal in authority and so on until a final decision is reached as provided in Section 2 of Article 3.

4189 Sec. 3. When it is approved that either party to a case has wilfully failed to appear before the proper tribunal for a hearing after receiving official notice to do so, the case shall be decided in favor of the party so appearing and no appeal shall be allowed, and if neither party appears, the case shall be closed by default.

Sec. 4. The tribunal first trying any officer or member for any offense against the organization except as elsewhere provided, shall have the right to fix the penalty for the offense and if sustained compliance with the penalty so imposed will be the only basis upon which the offender can regain good standing in the organization.

Sec. 5. The foregoing sections of this article shall not prohibit the enforcement of penalties as provided elsewhere in this constitution. Neither shall they prohibit the use of the right of recall as provided by Section 28, Article 8.

Article XIV.

Miscellaneous.

Section. 1. Any officer or any member of any branch of the organization guilty of embezzlement or of misappropriating any of the funds of the organization, shall be prosecuted by

every means possible by the branch whose funds are embezzled or misappropriated, and shall not be allowed to hold any office in the organization thereafter.

Sec. 2. Any officer of any branch of the organization accepting a salaried political office other than that of a State legislator, member of Congress, county sheriff, or member of State Board of Arbitration, State mining board, local school board, city or town council, shall resign his office in the United Mine Workers immediately upon his acceptance of the same.

4190 Sec. 3. Any officer or any employee of any branch of the organization seen in public in a state of intoxication while on duty, shall, upon conviction, be at once removed from his position by the proper authority having jurisdiction over such officer or employee.

Sec. 4. Any member of the United Mine Workers of America who shall enter any regular or special meeting in a state of intoxication shall be fined not less than one dollar ($1.00) nor more than ten dollars ($10.00) and said moneys turned into the defense fund.

Sec. 5. All officers of all branches of District No. 21 must upon retiring from office, turn over to their successors all monies, official records and documents, and all property belonging to the organization that may be in their possession at the time of their retirement.

Sec. 6. No miner, machine runner or helper, shall be permitted to enter the mine on idle days for the purpose of working except by permission of the Mine Committee and Executive Board same to be in urgent case in slopes and slope airways. Any miner, machine runner or helper doing so shall be fined ten dollars ($10.00) for each and every offense and the amount of the fine sent to the District office and deposited in the defense fund. Day hands may do work on idle days provided he shall not produce coal, but all day work to be equaliy divided among the day hands. A day laborer accepting wotk on idle days shall only receive the scale of wages adopted for said class of work. The company soliciting a day man for any class of work other than the regular work for which he was employed shall pay him the scale of wages governing his regular employment.

Sec. 7. Any member found guilty of contracting or ac-
4191 cepting as compensation for his labor less than the scale of price, shall be fined twenty-five ($25.00).

Sec. 8. Any members of any local Union found guilty of hiring laborers in the mine shall be fined fifty dollars ($50.00).

Sec. 9. Any member guilty of slandering or circulating or causing to be circulated false statements about any member of, or any member circulating or causing to be circulated any statement wrongfully condemning any decision rendered by any officer of the organization, shall, upon conviction, be suspended from membership for a period of six months and shall not be eligible to hold office for two years thereafter.

Sec. 10. All fines shall be considered as dues and shall be collected in the form that they accrue and be paid into the Local Union where the members so fined belong unless otherwise provided for.

Sec. 11. Any member of the organization withholding any official documents from the local or persons whom it was intended for, shall be removed from office or fined $10.00. The same shall apply in not answering documents when required.

Sec. 12. No District officer shall recognize any grievance presented by any officer, member or members of any Local Union until grievance has been handled by the proper parties specified by Joint Agreement.

Sec. 13. No District officer shall recognize any grievance that has been brought to his notice by an individual member or render any decision until he has consulted with Local Union affected.

Sec. 15. No officer of this District shall enter into any wage agreement with any individual or any member or members of the organization, to operate a coal mine
4192 on a co-operative basis or what is known as a stock company basis, unless such mines are operated under the direct supervision and management of the organization, and all coal mines operated on the above mentioned basis in violation of this section shall be declared unfair.

Sec. 16. The books of decisions shall become the property of the local unions and shall remain in the possession of the Recording Secretary and any officer or member of any local shall first sign a receipt assuring the prompt return of said books before the Recording Secretary shall permit it to pass out of his possession. And any officer or member or members failing to make prompt return of said books as herein provided, shall be fined the sum of $25.00.

Sec. 17. Where evidence can be conclusively established that a Board Member has made application for another position and it is proven, he shall be immediately deposed from the District Board.

Sec. 18. Whenever the members or officials of any Local Union shall be satisfied that any operator, agent, lessee or owner of any mine in this District is or is about to become financially embarrassed to the extent that said operator, agent, lessee or owner, is, or is likely to be unable to make full and complete settlement of wages upon the regular pay day, said unions or the District officers shall have power to demand of said operator, agent, lessee or owner, a good and sufficient bond conditioned that all wages dues, or which may become due, to all employes shall be fully paid during the life of any working contract.

Sec. 19. No face bosses shall be permitted to a voice or seat in the Local Union.

Sec. 20. This constitution to become effective on and
4193 after April 1st, 1912.

Sec. 21. Where any part of the constitution shall in any way conflict with either the National or District Agreements, the Agreements shall have precedence in all cases.

Sec. 22. When disputes or grievances arise growing out of joint agreements and the same is sustained by the District Board Member taking up such cases, said official shall immediately secure such evidence as may be necessary to support his position and prepare and present his case to those designated by joint agreement to render final decision on same. This section will in no way prohibit the District President to take part in preparing and presenting such cases.

Sec. 23. This constitution can be amended or abrogated by a majority of votes of the members of the Local Unions by a referendum vote. A majority of the Executive Board or one-fourth the membership of this district may at any time demand that any part of the constitution be submitted to the local unions to be voted upon.

4194 Mr. Covington: I offer in evidence defendant's Exhibit 29, being a certified copy of the articles of incorporation of the Denman Coal Company.

The Court: This is not duplicating, is it, Mr. Covington?

Mr. Covington: No, sir.

The Court: I knew there were some of them in.

(Defendants' Exhibit 29, so offered in evidence, is in the words and figures following, to-wit):

Defendants Exhibit 29.

"State of West Virginia
Certificate of Incorporation

I, Wm. M. O. Dawson, Secretary of State of the State of West Virginia, do hereby certify that an Agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

I. The undersigned agree to become a corporation by the name of

Denman Coal Company.

II. The principal places of business of said corporation shall be located at Fort Smith, Sebastian County, State of Arkansas, and at South McAlester, Choctaw Nation, Indian Territory, or at such other places as may be designated by a by-law of said company. The chief works will be located outside the state of West Virginia.

III. The objects and purposes for which this corporation is formed are as follows:

To mine, ship and sell coal; to manufacture, ship and sell coke; to manufacture into salable products and com-
4195 modities any and all by-products of coal and coke and the said products and commodities to sell and dispose of in any market; to quarry, to dig, mine and bore for iron, fire clay, stone, sement rock, water, gas, oil, bitumen, asphalt, and salt and the same to refine and manufacture for sale, or to sell in crude form; to cut, log and saw timber, to manufacture the same into salable product of any kind and the same to sell in any market; to equip, maintain and operate plants for the generation and transmission of electricity and such electricity to use or sell for profit for any purpose; to construct roadways, tramways, water courses, reservoirs and gas, oil, compressed air and water pipe lines, and to make fixed charges for the use of the same and dispose of said products in any market, and to equip, maintain and conduct a slaughter house and meat market and the product thereof to sell and dispose of in any market, to equip, maintain and conduct cold storage warehouses and to buy, sell, barter and exchange any and all commodities which may be stored therein; to purchase any and all wares, commodities, goods, merchandise, live-stock and personal property of

every nature and the same to sell again for profit; to own, hold, lease and otherwise acquire real estate, to encumber and to improve the same, and to sell and otherwise dispose of such real estate, in the States of Colorado, Texas, Kansas, Missouri, Arkansas and Louisiana, and in the Indian Territory and the Territories of New Mexico, Arizona and Oklahoma, in accordance with the laws thereof; to construct, maintain and operate any and all machinery, appliances and apparatus, stores, commissaries, dwelling houses, and buildings of every sort which may be necessary or convenient for the conduct of any branch of its business; to guarantee the payment of bonds of other incorporated companies,
4196 and to acquire and hold by purchase or otherwise the stock and bonds of other incorporated companies.

IV. The amount of total authorized capital stock of said corporation shall be Twenty-five Thousand Dollars ($25,000.-00), which shall be divided into two hundred and fifty shares of the par value of one hundred dollars ($100.00) each; of which authorized capital stock the amount of Twenty-Five Thousand Dollars ($25,000.00) has been subscribed, and the amount of Nine Thousand Dollars ($9,000.00) has been paid.

V. The names and post office addresses of the incorporators, and the number of shares of stock subscribed for by each, are as follows:

Names	Postoffice Address	Total No. of Shares.
F. Bache	Fort Smith, Arkansas.	144
H. Denman,	South McAlester, Indian Territory	96
J. B. Hilling,	Burma, Arkansas,	8
Ransom Gully, Jr.	Fort Smith, Arkansas	1
J. R. Startzell	Fort Smith, Arkansas	1

VI. This corporation is to expire on the Seventeenth day of October, 1953.

Given under our hands this the seventeenth day of October, 1903.

F. BACHE
HEBER DENMAN
J. B. HILLING
RANSOM GULLY, JR.
J. R. STARTZELL.

Wherefore, the corporators named in the said Agreement and who have signed the same, and their successors and assigns, are hereby declared to be from this date until
4197 the Twentieth day of October Nineteen Hundred and Fifty Three a Corporation by the name and for the purposes set forth in said agreement.

Given under my hand and the Great Seal of the said State, at the City of Charleston, this Twentieth day of October, Nineteen Hundred and Three.

WM. M. O. DAWSON,

Secretary of State.

(Certificate unde Section 906 Revised Statutes of the United States.)

United States of America
State of West Virginia
Office of Secretary of State

I, Houston G. Young, Secretary of State of the State of West Virginia, being the officer who, under the constitution and laws of said State, is authorized to issue certificates of incorporation of all companies incorporated under the laws thereof, and being the officer authorized to issue certificates certifying changes in and amendments to such certificates of incorporation, and being the officer who is the keeper of all the records and papers relating to the creation of such incorporated companies and of changes in and amendments to said certificates of incorporation, including the powers of attorney of such incorporated companies, appointing a resident agent or attorney in said State, and of the reports of such incorporated companies, and being the officer authorized to authenticate exemplifications of the same, do hereby certify that the foregoing and annexed instrument is an exemplified copy, carefully compared by me with the original record now in my official custody as said Secretary of State, and found to be a true and correct copy of the Certificate of Incorporation of

4198 Denman Coal Company

dated the 20th day of October, k903, and recorded in the records of Corporations of my said office; and that said exemplification is in due form and made by me as the proper officer, and is entitled to have full faith and credit given it in every court and office within the United States.

In Testimony Whereof, I have hereunto attached my official signature and the Great Seal of the State of West Virginia, at the Capitol in the City of Charleston, this 21 day of September, 1917.

(Signed) HOUSTON G. YOUNG,
(Seal)" Secretary of State.

4199 Mr. Covington: I offer in evidence defendants' Exhibit 30, showing the articles of incorporation of the Bache-Denman Coal Company, one of the plaintiffs herein.

(The above defendants' Exhibit 30, so offered in evidence, is in the words and figures following, to-wit):

Defendants Exhibit 30.

"State Of West Virginia

Certificate Of Incorporation

I, Wm. M. O. Dawson, Secretary of State of the State of West Virginia, do hereby certify that an Agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

I. The undersigned agree to become a corporation by the name of

Bache-Denman Coal Company.

II. The principal place of business of said corporation shall be located at Fort Smith, Sebastian County, State of Arkansas, and at South McAlester, Choctaw Nation, Indian Territory, or at such other places as may be designated by a by-law of said company. Its chief works will be located outside the State of West Virginia.

III. The objects and purposes for which this corporation is formed are as follows:

To mine, ship and sell coal; to manufacture, ship and sell coke; to manufacture into salable products and commodities any and all by-products of coal and coke and the said products and commodities to sell and dispose of in any market; to quarry, to dis, mine and bore for iron, fire clay, stone, cement-rock, water, gas, oil, bitumen, asphalt and salt
4200 and the same to refine and manufacture for sale, or to sell in crude form; to cut, log and saw timber, to manufacture the same into salable product of any kind and the

same to sell in any market; to equip, maintain and operate plants for the generation and transmission of electricity and such electricity to use or sell for profit for any purposes; to construct roadways, railroad switches, tramways, bridges, water courses, reservoirs and gas, oil, compressed air and water pipe lines, and to make fixed charges for the use of the same and dispose of said products in any market; to own engines, cars and other railroad equipments, and to use, sell or lease the same; to equip, maintain and conduct a slaughter house and meat market and to sell and dispose of the product thereof in any market, to equip, maintain and conduct cold storage warehouses and to buy, sell, barter and exchange any and all commodities which may be stored therein; to purchase any and all wares, commodities, goods, merchandise live stock and personal property of every nature and the same to sell again for profit; to own, hold, lease and other wise acquire real estate, to encumber tna do improve the same, and to sell and otherwise dispose of such real estate, in the States of Colorado, Texas, Kansas, Missouri, Arkansas and Louisiana, and in the Indian Territory and the Territories of New Mexico, Arizona and Oklahoma, in accordance with the laws thereof; to construct, maintain and operate any and all machinery, appliances and apparatus, stores, commissaries, dwelling houses, and buildings of every sort which may be necessary or convenient for the conduct of any branch of its business; to acquire by purchase, subscription or otherwise, and to hold or dispose of stock, bonds or any other obligations of any other corporation formed for, or engaged in or pursuing, any one or more of the kinds of busi-
4201 ness, purposes, objects or operations above indicated, or owning or holding any property of any kind herein mentioned, or of any corporation owning or holding the stock, bonds or other obligations of any such corporations; to hold for investment or to otherwise use, sell and dispose of any stock, bonds or any other obligations of any such corporation; to aid in any manner any corporation whose stock, bonds or other obligations are held or in any manner guaranteed by this company, or to do any other acts or things for the preservation, protection, improvement or enhancement of the value of any such stock, bonds or other obligations, or to do any acts or things designed to any such purpose; and while owner of such stocks, bonds or other obligations, to exercise all the rights, powers and privileges of ownership thereof, and to exercise any and all voting power thereon; to have the power to issue bonds, stocks and other obligations in payment of property purchased or acquired by it, or for any oth-

er object in or about its business; to mortgage or pledge any stocks, bonds or any other obligations, or any property which may be acquired by it, to secure any bonds or other obligations by it issued or incurred; to guarantee any dividends on bonds or contracts, or other obligations; to make and perform contracts of any kind and description; and in carrying on its business, or for the purpose of attaining or furthering any of its objects, to do any and all other acts and things, and to exercise any and all other powers, which a co-partnership or natural person could do and exercise, and which now or hereafter may be authorized by law.

IV. The amount of the total authorized capital stock of said corporation shall be One Hundred Thousand Dollars ($100,000) which shall be divided into one thousand
4202 (1000) shares of the par value of one hundred dollars ($100.00) each; of which authorized capital stock the amount of one hundred thousand dollars ($100,000.00) has been subscribed and the amount of One Hundred Thousand Dollars ($100,000.00) has been paid.

V. The names and post office addresses of the incorporators and the number of shares of stock subscribed for by each, are as follows:

Names	Post Office Address	Total Number Of Shares.
F. Bache	Fort Smith, Arkansas,	581
H. Denman	South McAlester, Indian Territory	384
J. V. Hilling,	Burma, Arkansas,	33
Ransom Gully, Jr.	Fort Smith, Arkansas	1
J. R. Startzell	Fort Smith, Arkansas	1

VI. This corporation is to expire on the seventeenth day of October, 1953.

Given under our hands this the seventeenth day of October, 1903.

F. BACHE
HEBER DENMAN
J. V. HILLING
RANSOM GULLY, JR.
J. R. STARTZELL.

Wherefore, The corporators named in the said Agreement and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the Seventeenth day of October Nineteen Hundred and Fifty-three a

Corporation by the name and for the purposes set forth in said agreement.

Given under my hand and the Great Seal of the said State at the City of Charleston, this Twentieth day of Oc-
4203 tober Nineteen Hundred and Three.

WM. M. OL. DAWSON,
Secretary of State.

State Of West Virginia.

Certificate.

I, Stuart F. Reed, Secretary of State of the State of West Virginia, hereby certify that F. Bache, President of

Bache-Denman Coal Company,

a corporation created and organized under the laws of the State of West Virginia, has certified to me under his signature and the corporate seal of said corporation, that, at a meeting of the stockholders of said corporation, regularly held in accordance with the requirements of the law of said State, at the office thereof, in Fort Smith, Arkansas, on the 24th day of June, 1911, at which meeting a majority of stock of such coporation being represented by the holders thereof in person or by proxy and voting for the following resolution, the same was duly and regularly adopted and passed, to-wit:

"Resolved, that the outhorized capital stock of Bache-Denman Coal Company be increased from 1000 shares of the par value of $100.00 each, to 1550 shares of the par value of $100.00 each, so that the authorized capital stock of said corporation shall hereafter be $155,000.00 instead of $100,000.00 as heretofore."

Be it further resolved that the said increased stock be classified as follows:

$100,000.00 thereof shall be common stock, and $55,000.00 shall be preferred stock, that said preferred stock shall be entitled to receive dividends at the rate of 6% per annum, payable annually at the end of each fiscal year of said
4204 company, or as soon thereafter as may be practical, but not to exceed four months after the expiration of the company's fiscal year, said dividends to be paid out of the earnings of said company in preference to any dividends upon the common stock and said dividends shall be cumulative after the fiscal year of said company, ending December 31st, 1911, so that any deficiency after said date in the dividends

to be paid upon said preferred stock in any year shall be made good out of the earnings of subsequent years before any dividends shall be paid upon common stock. Such preferred stock shall not, however, be entitled to participate in other or additional earnings or benefit, but shall be entitled to be repaid in full from any distribution of the assets of said corporation, in the event of insolvency or dissolucion, before any distribution of its capital shall be made to the holders of the common stock. The control and management of said corporation shall be and remain in the hands of the holders of the common stock so long as the business of the company is able to pay from its earnings or reserve dividends of 6% per annum on all of its preferred stock which has been issued, and the holders of said preferred stock shall have no voting power until after said dividends shall remain unearned and unpaid for a period of three years. If said corporation shall not earn and pay the dividends upon said preferred stock for three successive years, then and in that event the holders of the preferred stock shall have the same voting power as the common stock, to-wit: One vote for each share of stock, provided said right shall exist only as long as said dividends are in default, The said corporation shall have the option to retire said preferred stock in whole or in part any time upon thirty days' notice in writing to the holder thereof, by
4205 paying to such holder the sum of $100.00 for each share of such preferred stock, together with any accumulative dividends due thereon, and if said stock shall not be retired at the end of the divident period, or in other words, at th end of the fiscal year of said corporation, then the dividends accrued thereon shall be in proportion that the elapsed time since the end of the fiscal year bears to the whole year.

Be it further resolved that $55,000.00 of said preferred stock shall be issued to H. Denman at par for the common stock now held by him in said Company; and if at any subsequent time additional preferred stock is authorized, the next $45,000.00 of said preferred stock may be sold for cash at 80¢ on the dollar; the next $50,000.00 of said preferred stock may be sold for cash at 85¢ on the dollar; the next $50,000.00 of said preferred stock may be sold for cash at 90¢ on the dollar; the next $50,000.00 of said preferred stock may be sold for cash at 95¢ on the dollar; the next $50,000.00 of said preferred stock may be sold for cash at par. In the event cash cannot be obained for said preferred stock it may be issued for other securities or properties, provided they have a fair cash value equal to the par value of said preferred stock issued for them.

Be it further resolved that the preferred stock of this company shall not be issued or increased above $300,000.00 as long as said H. Denman is the holder of any of said stock without his written consent.

Be it further resolved that the common stock surrendered by said Denman for said preferred stock shall be held by said company as treasury stock and shall not be re-issued by it for less than its par value, unless its book value shall become less than par in which event it may be re-issued
4206 for its book value in cash or its equivalent."

Wherefore, I do declare said increase of the authorized capital stock as set forth in the foregoing resolution authorized by law.

Given under my hand and the Great Seal of the said State, at the City of Charleston, this Tenth day of July, 1911.

(G. S.) STUART F. REED,
Secretary of State.

State of West Virginia

Certificate

I, Stuart F. Reed, Secretary of State of the State of West Virginia, hereby certify that F. Bache, President of the

Bache-Denman Coal Company,

a corporation created and organized under the laws of the State of West Virginia, has certified to me under his signature and the corporate seal of said corporation, that, at a meeting of the stockholders of said corporation, regularly held in accordance with the requirements of the law of said State, at the office thereof, in Fort Smith, Arkansas, on the sixth day of December, 1911, at which meeting a majority of stock of such corporation being represented by the holders thereof in person or by proxy and voting for the following resolution, the same was duly and regularly adopted and passed, to-wit:

"That the President is directed to have the Common Stock of the Company increased from its present capital consisting of 1000 shares of common stock and 550 shares of preferred stock, to 1000 shares of common stock and 1223 shares of preferred stock, all of the par value of $100.00 per share. The additional 673 shares of preferred stock to have the same rights and privileges as that heretofore issued. The
4207 President is further directed to secure the proper authority for the additional issue from the Secretary of State of West Virginia."

Wherefore, I do declare said increase of the authorized capital stock as set forth in the foregoing resolution authorized by law.

Given under my hand and the Great Seal of the said State, at the City of Charleston, this Fourth day of January, 1912.

(G. S.) STUART F. REED,
Secretary of State.

(Certificate Under Section 906 Revised Statutes of the United States.)

United States of America

State of West Virginia

Office of Secretary of State.

I, Houston G. Young, Secretary of State of the State of West Virginia, being the officer who, under the constitution and laws of said State, is authorized to issue certificates of incorporation of all companies incorporated under the laws thereof, and being the officer authorized to issue certificates certifying changes in and amendments to such certificates of incorporation, and being the officer who is keeper of all the records and papers relating to the creation of such incorporated companies and of changes in and amendments to said certificates of incorporation, including the powers of attorney of such incorporated companies, appointing a resident agent or attorney in said State, and of the reports of such incorporated companies, and being the officer authorized to authenticate exemplifications of the same, do hereby certify that the foregoing and annexed instrument is an exemplified copy, carefully compared by me with the original record now in my official custody as said Secretary of State, and found to be
4208 a true and correct copy of the Certificate of Incorporation of Bache-Denman Coal Company, dated the 20th day of October, 1903, with all amendments and additions thereto, and recorded in the records of Corporations of my said office; and that said exemplification is in due form and made by me as the proper officer, and is entitled to have full faith and credit given it in every court and office within the United States.

In Testimony Whereof, I have hereunto attached my official signature and the Great Seal of the State of West Virginia, at the Capitol in the City of Charleston, this 22nd day of September, 1917.

(Seal.)" HOUSTON G. YOUNG,
Secretary of State.

4209 Mr. Covington: I offer in evidence defendants' Exhibit 31, showing the articles of incorporation of the Hartford Coal Company, one of the plaintiffs in this case.

We offer in evidence defendants' Exhibit 32, certified copy of the articles of incorporation of the,—so much of this exhibit as shows the date on which they entered the state of Arkansas.

Mr. Drinker: In connection with this Exhibit 31, there is some extraneous matters here connected with the statement of the conditions of the Hartford Coal Company at the close of business, 1907.

The Court: That is not competent, just take and tear that out.

Mr. Covington: Yes, I didn't know that was in there.

Mr. Drinker: If these are just the articles, we have no objection, but we want a moment to go through them.

The Court: Just proceed with your offer, Mr. Covington, and if there is any objection, we can dispose of them. Have you made all of your offer?

Mr. Covington: We just want to make the offer of the first page of the certificate, showing when the plaintiff companies entered the state of Arkansas.

Mr. Drinker: We object to anything on this paper Exhibit 31 that is not the articles of incorporation, but we don't object to a certified copy of the articles of incorporation.

The Court: Anything outside of the articles is not competent, and should be eliminated. The offer will be denied. Give the paper to counsel for counsel for the defendants and let them put it in shape, if they desire to renew their
4210 offer.

Mr. Grant: Now, in defendants' Exhibit 31, the defendants offer page 1 of the document marked exhibit 31,—or better, defendants offer Exhibit 31, showing the date on

which the Hartford Coal Company, a corporation in Indian Territory, entered the state of Arkansas for the purpose of doing business.

(Exhibit 31, so offered in evidence, is in the words and figures following, to-wit):

Exhibit 31.

State of Arkansas,

Department of State.

Tom J. Terral, Secretary of State

To All to Whom These Presents Shall Come—Greeting:

I, Tom J. Terral, Secretary of State of the State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of Hartford Coal Company of Fort Smith, Arkansas, An Indian Territory Corporation the original of which was filed for record in this office on the 3rd day of June 1907.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at office in the City of Little Rock, this 31st day of August, 1917.

(Seal)

TOM J. TERRAL,
Secretary of State,
By ....., Deputy.

4211 Mr. Grant: Defendants offered Exhibit 32, for the same purpose, as to the Denman Coal Company, a West Virginia corporation.

(Defendants' Exhibit 32, so offered in evidence, is in the words and figures following, to-wit):

Exhibit 32.

State of Arkansas,

Department of State

Tom J. Terral, Secretary of State

To All to Whom These Presents Shall Come—Greeting:

I, Tom J. Terral, Secretary of State of the State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of Denman Coal Company of Fort Smith, Arkansas, A West Virginia Cor-

poration, the original of which was filed for record in this office on the 3rd day of June 1907.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at office in the City of Little Rock, this 31st day of August 1917.

(Seal)

TOM J. TERRAL,
Secretary of State,
By ....., Deputy.

4212 Mr. Grant: The defendants offer Exhibit 33, showing the date that the Mammoth Vein Coal Mining Company entered the state for the purpose of doing business.

(Defendants' Exhibit 33, so offered in evidence, is in the words and figures following, to-wit):

Exhibit 33.

State of Arkansas,

Department of State

Tom J. Terral, Secretary of State

To All to Whom These Presents Shall Come Greeting:

I, Tom J. Terral, Secretary of State of the State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of Mammoth Vein Coal Mining Company of Fort Smith, Arkansas, A West Virginia Corporation, the original of which was filed for record in this office on the 3rd day of June, 1907.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at office in the City of Little Rock, this 31st day of August 1917.

(Seal)

TOM J. TERRAL,
Secretary of State,
By ....., Deputy.

4213 Mr. Grant: The defendants offer defendants' Exhibit 34, which is a certified copy of the articles of agreement and incorporation of the Prairie Creek Coal Mining Company.

(Defendants' Exhibit 34, so offered in evidence, is in the words and figures following, to-wit):

Exhibit 34.

State of Arkansas,

Department of State

Tom J. Terral, Secretary of State

To All to Whom These Presents Shall Come Greeting:

I, Tom J. Terral, Secretary of State of the State of Arkansas do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of Articles of Agreement and Incorporation of Prairie Creek Coal Mining Company the original of which was filed for record in this office on the 12th day of December 1906.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at office in the City of Little Rock, this 31st day of August 1917.

(Seal) TOM J. TERRAL,
Secretary of State,
By ....., Deputy.

Articles of Agreement and Incorporation
of
Prairie Creek Coal Mining Company

Know All Men By These Presents:

That the corporators hereinafter named have this day, and by these presents, formed a corporation under and in pursuance of the laws of the state of Arkansas, in that be-
4214 half provided, for "incorporations for manufacturing and other lawful Business," and in evidence thereof do hereby execute the following Articles of Incorporation:

First: The name of the corporation shall be Prairie Creek Coal Mining Company.

Second: The corporators are T. W. M. Boone, H. B. Salls, and J. D. Chastain.

Third: The place of business is to be located at Fort Smith, Arkansas, or at such other place as the Board of Directors may select.

Fourth: The general nature of the business proposed to be transacted by this corporation is buying, selling and leasing real estate, buying and leasing and operating coal mines; leasing and sub-leasing, owning and renting houses, buying and selling merchandise, giving and taking mortgages; and

carrying on any other line of business that may be transacted with coal mining in any of its departments.

Fifth: The amount of capital stock of the said croporation shall be Twenty-Five Thousand Dollars, of which Ten Thousand Dollars has been subscribed by the corporators aforesaid, and the residue thereof may be issued and disposed of as the Board of Directors may from time to time order and direct.

Sixth: The said Capital Stock shall be divided into One Thousand Shares of the value of $25.00 each.

Seventh: The affairs and business of the corporation shall be conducted and controlled by a Board of Directors consisting of three members, all of whom shall be stockholders of the corporation. Said Board of Directors shall elect one of their members as president, and one of its members as Vice-President, and shall also elect a Secretary and Treasurer.

Eight: The first election for Directors shall be held
4215 immediately after the organization of the corporation, and said Directors shall serve for one year and until their successors are elected.

Ninth: The Board of Directors are empowered to ordain and establish all By-Laws and regulations necessary to the management and business of said Corporation, and alter and repeal the same at pleasure.

Tenth. The first meeting of the said corporation for organization shall be held in Fort Smith, Arkansas, at the office of T. W. M. Boone, at two o'clock P. M., on the 10th day of December, 1906, the subscribers hereby waive notice of said meeting.

In Testimony Whereof, We have hereunto set our hands, on this, the 10th day of December, 1906.

T. W. M. BOONE,
H. B. SALLS,
J. D. CHASTAIN.

Certificate.

Whereas, T. W. M. Boone, H. B. Salls, and J. D. Chastain, have associated themselves together as a body politic and corporate, to be known as Prairie Creek Coal Mining Company; And Whereas, The said Corporators being the subscribers to the Capital Stock of the said corporation have waived the fifteen days' notice as required by law and called a meeting

for organization, to be held in Fort Smith, Arkansas, at the office of T. W. M. Boone, at two o'clock, P. M. on the 10th day of December, 1906;

Whereas, At the time and place above set out, a meeting of the subscribers aforesaid was held to organize said corporation and elect three directors, and

4216 Whereas, At said meeting the following gentlemen were elected Directors, to-wit: T. W. M. Boone, H. B. Salls, and J. D. Chastain,

And whereas, At a meeting of the Board of Directors, T. W. M. Boone was elected President, H. B. Salls, was elected Vice-President, and J. D. Chastain was elected secretary and treasurer;

Now, Therefore, The said T. W. M. Boone as president, and the said H. B. Salls and J. D. Chastain, as Directors do, in pursuance of law issue this, their Certificate, verified by their oaths and do hereby certify as follows:

First: said corporation is formed for the purpose of buying, selling and leasing real estate, buying and leasing and operating coal mines; leasing and sub-leasing, owning and renting houses, buying and selling merchandise, giving and taking mortgages; and carrying on any other line of business that may be connected with coal mining in any of the departments.

Second: Its Capital Stock is Twenty-five Thousand Dollars, divided into shares of $25,00 each.

Third: Ten Thousand Dollars of said capital stock has been actually paid in by the subscribers hereto.

Fourth: The name of the stock holders and the number of shares owned by thes respectively is as follows:—

Name	No. of Shares:
T. W. M. Boone,	296
H. B. Salls,	100
J. D. Chastain,	4

In Testimony Whereof, The said T. W. M. Boone, President of said corporation and H. B. Salls and J. D. Chas-
4217 tain, a majority of the Board of Directors of said corporation, have hereunto set their hands on this 10th day of December, 1906.

T. W. M. BOONE
President
H. B. SALLS
J. D. CHASTAIN
Directors

State of Arkansas.
County of Sebastian

T. W. M. Boone, H. B. Salls, and J. D. Chastain, on their oath say that the matters and things in the foregoing Certificate set out, are true, to the best of their knowledge and belief.

T. W. M. BOONE
H. B. SALLS
J. D. CHASTAIN

Subscribed and sworn to before me, this the 10th day of December, 1906. In Testimony Whereof, I have hereunto set my hand and seal of office.

(Seal

FRANK J. LYMAN
Notary Public.

My Commission expires Oct. 9, 1907.

Certificate of Record

State of Arkansas.
County of Sebastian
Ft. Smith District

I T. N. Reed County Clerk for the County aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for Record in my office on the 11th day of Dec., A. D. 1906, and the same is now duly recorded, with the affidavits and certificates thereon, in Record Book "D", for Articles of incorporation, at page .....

In Witness Whereof. I have hereunto set my hand and affixed my official seal this 11th day of Dec. 1906.

(Seal)

T. N. REED Clerk.
By Monte B. Sims D. C.

4218 Mr. Grant: Defendants offer next defendants' Exhibit 35, which is a certified copy of the articles of agreement and incorporation of the Mammoth Vein Coal Company, an Arkansas corporation.

(Defendants' Exhibit 35, so offered in evidence, is in the words and figures following, to-wit):

Exhibit 35.

State of Arkansas,

Department of State

Tom J. Terral, Secretary of State

To All to Whom These Presents Shall Come, Greeting:

I, Tom J. Terral, Secretary of State of the State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of Articles of Agreement and Incorporation of the Mammoth Vein Coal Company the original of which was filed for record in this office on the 18th day of April 1904.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at office in the City of Little Rock, this 31st day of August 1917.

(Seal)

TOM J. TERRAL
Secretary of State

By, ...Deputy.

Articles of Agreement and Incorporation
of the
Mammoth Vein Coal Company

Know all men by these presents, that the corporators hereinafter named have this day and by these presents formed a corporation under and in pursuance of the laws of
4219 the State of Arkansas in that behalf provided for "Incorporations for manufacturing and other lawful business", and in evidence thereof do hereby execute the following Articles of Incorporation:

I.

The name of said corporation shall be: Mammoth Vein Coal Company, and it is organized for a term of fifty (50) years.

II.

The names of the corporators are F. Bache, H. Denman W. J. Echols and James F. Read.

III.

The principal office and place of business of this corporation shall be at Fort Smith in the State of Arkansas, or at such other place as the Board of Directors may select.

IV.

The amount of capital stock of said corporation shall be thirty-five thousand dollars ($35,000.00) divided into three hundred and fifty (350) shares of one hundred dollars ($100.00) each, of which amount twenty-five thousand dollars ($25,000.00) has been subscribed by the incorporators aforesaid, and the residue thereof may be issued and disposed of as the Board of Directors may from time to time order and direct.

V.

The general nature of the business proposed to be transacted by this corporation is to mine, ship and sell coal; to manufacture, ship and sell coke; to manufacture into salable products and commodities any and all by-products of coal and coke and the said products and commodities to sell and dispose of in any market, to quarry, to dig, mine and bore for iron, fire clay, stone, cement, water, oil, gas, bitumen, asphalt and salt, the same to refine and manu-
4220 facture for sale or to sell in crude form; to cut, log and saw timber; to manufacture the same into salable products of any kind and the same to sell in any market; to equip, maintain and operate plants for the generation and transmission of electricity, and such electricity to use or sell for profit for any purpose; to construct roadways, tramways, watercourses, reservoirs and gas, oil, compressed air and water pipe lines, and to make fixed charges for the use of the same, and dispose of said products in any market, and to equip, maintain and conduct a slaughterhouse and meat market, and the product thereof to sell and dispose of in any market, to equip maintain and conduct cold storage warehouses, and to buy, sell, barter and exchange any and all commodities which may be stored therein; to purchase any and all wares, commodities, goods, merchandise, live stock and personal property of every nature and the same to sell again for profit; to own, hold, lease and otherwise acquire real estate, whether in or out of the State of Arkansas; to encumber and improve the same, and to sell or otherwise dispose thereof; to construct, maintain and operate any and all machinery, appliances and apparatus, stores, commissaries dwelling houses and buildings of every sort which may be necessary or convenient for the conduct of any branch of its business; to guarantee the payment of the bonds of other incorporated companies and to acquire and hold by purchase or otherwise the stock and bonds of other incorporated companies.

VI.

The affairs and business of the corporation shall be conducted and controlled by a Board of Directors consisting of three members, all of whom shall be stockholders of the corporation. Said Board of Directors shall elect one of its members as President and shall also elect a Secretary and Treasurer.

4221

VII.

The first election of said directors shall be held immediately after the organization of the corporation, and said directors shall serve for one year and until their successors are elected.

VIII.

The board of directors are empowered to ordain and establish all by-laws and regulations necessary to the management and business of said corporation and to alter and repeal the same at pleasure.

IX.

The first meeting of the said incorporators for organization shall be held in the City of Fort Smith, State of Arkansas, at the law office of Read and McDonough at three (3) o'clock, p. m. on the fifteenth (15) day of April 1904, and the subscribers hereto hereby waive notice of said meeting.

In Testimony Whereof we have hereunto set our hands on this the fifteenth (15) day of April, 1904.

F. BACHE
HEBER DENMAN
W. J. ECHOLS
JAS. F. READ

Certificate of Incorporation.

Whereas, F. Bache, H. Denman, W. J. Echols, and James F. Read have associated themselves together as a body politic and corporate to be known as Mammoth Vein Coal Company; and,

Whereas, said incorporators, being all the subscribers to the capital stock of the said corporation, have waived the fifteen days' notice as required by law and called a meeting for the organization to be held in the City of Fort

4222 Smith, State of Arkansas, at the law office of Read and McDonough, at three (3) o'clock, p. m. on the fifteenth (15) day of April, 1904; and,

Whereas, at the time and place above set out a meeting of the subscribers aforesaid was held to organize said corporation and elect three directors; and,

Whereas, at said meeting the following gentlemen were elected directors, to-wit, F. Bache, H. Denman and W. J. Echols; and,

Whereas, at a meeting of the said board of directors, F. Bache was elected President, H. Denman was elected Secretary, and W. J. Echols was elected Treasurer;

Now Therefore, the said president, and the said F. Bache, H. Denman and W. J. Echols as directors, do in pursuance of law issue this their certificate verified by their oaths, and do hereby certify as follows: First, said corporation is formed for the purpose of mining, shipping and selling coal; manufacturing, shipping and selling coke; manufacturing into salable products and commodities any and all by-products of coal and coke and the said products and commodities selling and disposing of in any market; quarrying, digging, mining and boring for iron, fire clay, stone, cement-rock, water, gas, oil, bitumen, asphalt and salt, and the same refining and manufacturing for sale or selling in crude form; cutting, logging and sawing timber; manufacturing the same into salable products of any kind and the same selling in any market; equipping, maintaining and operating plants for the generation and transmission of electricity, and such electricity using or selling for profit for any purpose; constructing roadways, tramways, watercourses, reservoirs and gas, oil, compressed air and water pipe lines, and making fixed charges for the use of the same and disposing of said
4223 products in any market, and equipping, maintaining and conducting a slaughter-house and meat market, and the product thereof selling and disposing of in any market; equipping, maintaining and conducting cold storage warehouses, and buying, selling, bartering and exchanging any and all commodities which may be stored therein; purchasing any and all wares, commodities goods, merchandise. live stock and personal property of every nature and the same selling again for profit; owning, holding, leasing and otherwise acquiring real estate, wnether in or out of the state of Arkansas; encumbering and improving the same, and selling or otherwise disposing thereof; constructing, maintaining and operating any and all kind of machinery, appliances, and apparatus, stores, commissaries, dwelling houses and buildings of every sort which may be necessary or convenient for the conduct of any branch of it business;

guaranteeing the payment of the bonds of other incorporated companies and acquiring and holding by purchase or otherwise the stock and bonds of other incorporated companies. Second, its capital stock is thirty-five thousand dollars ($35,000.00), divided into three hundred and fifty (350) shares of one hundred dollars ($100.00) each. Third, twenty-five thousand dollars ($25,000.00) of said capital stock have been actually paid in by the subscribers hereto. Fourth, the names of the stockholders and the number of shares owned by them respectively are as follows:

Names.	Number of shares.
F. Bache	Ninety shares
H. Denman	Ninety shares
W. J. Echols	Sixty shares
James F. Read	Ten shares

In Testimony Whereof, the said F. Bache, President
4224 of the said corporation, and the said F. Bache, H. Denman, and W. J. Echols, a majority of the board of directors of said corporation, have hereunto set their hands on this the fifteenth (15th) day of April, 1904.

F. BACHE, President.
F. BACHE
HEBER DENMAN
W. J. ECHOLS
JAS. F. READ

State of Arkansas,
County of Sebastian—ss.

F. Bache, H. Denman and W. J. Echols on their oaths say that the matters and things in the foregoing certificates set out are true to the best of their knowledge and belief.

F. BACHE
HEBER DENMAN
W. J. ECHOLS

Subscribed and sworn to before me this the 15th day of April 1904.

LINCOLN R. CLARK,
(Seal) Notary Public.

My commission expires June 28, 1907.

Certificate of Record

State of Arkansas,
County of Sebastian,
Ft. Smith District

I, T. N. Reed, County Clerk for the county aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 16th day of April A. D. 1904, and the same is now duly recorded with the affidavits and certificates thereon, in Record Book "C" for Articles of Incorporation, at page 587.

4225 In Witness Whereof, I have hereunto set my hand and affixed my official seal this 16th day of April, 1904.

T. N. REED, Clerk.
(Seal) By Mont B. Sims, D. C.

4226 Mr. Grant: Next is Defendants Exhibit 36, certified copy of the Articles of Agreement and Incorporation of the Sebastian County Coal Company, an Arkansas corporation.

(Said Exhibit 36, so offered in evidence, is in words and figures following, to-wit:)

Defendants Exhibit 36.

"State of Arkansas,
Department of State

TOM J. TERRAL, Secretary of State

To All to Whom These Presents Shall Come,—Greeting:

I, Tom J. Terral, Secretary of State of the State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of Articles of Agreement and Incorporation of the

Sebastian County Coal Company

the original of which was filed for record in this office on the 21st day of November 1905.

In Testimony Wherof, I have hereunto set my hand and affixed my official Seal.

Done at office in the City of Little Rock, this 31st day of August, 1917.

TOM J. TERRAL,
(Seal) Secretary of State.

Fees:

Twenty-five ($25) Dollars for the first ten thousand ($10,000) dollars, or under, of authorized Capital Stock, and one-tenth of one per cent additional on all amounts in excess of ten thousand ($10,000) dollars; with five dollars ($5.00) added for charter.

Articles of Agreement and Incorporation of the Se-
4227 bastian County Coal Company

Know All Men by these Presents:

That the Corporators hereinafter named have this day, and by these presents formed a Corporation under and in pursuance of the laws of the State of Arkansas, in that behalf provided, for "Incorporations for manufacturing and other lawful business", and in evidence thereof do hereby execute the following Articles of Incorporation:

First: The name of said Corporation shall be Sebastian County Coal Company.

Second: The Corporators are Joseph M. Spradling, J. M. Spradling, J. L. Spradling and Jesse A. Harp.

Third: The place of business is to be located at Hartford, Arkansas, and its office for the transaction of business shall be in Hartford, Arkansas or at such other place as the Board of Directors may select.

Fourth: The general nature of the business proposed to be transacted by this Corporation is buying, leasing, and selling coal lands; mining, buying and selling coal; buying and selling merchandise; building and equipping railroads, and any other business in any way germain to any of the branches above enumerated..

Fifth: The amount of the capital stock of said Corporation shall be twenty five hundred Dollars, of which twenty-five hundred Dollars has been subscribed by the Corporators aforesaid, and the residue thereof may be issued and disposed of as the Board of Directors may from time to time order and direct.

Sixth: The said Capital Stock shall be divided into
4228 one hundred shares of the value of $25 each.

Seventh: The affairs and business of the Corporation shall be conducted and controlled by a Board of Directors, consisting of three members, all of whom shall be stock-

holders of the Corporation. Said Board of Directors shall elect one of its members as President, and one of its members as Vice-President, and shall also elect a Secretary and Treasurer.

Eixhgh: The first election of Directors shall be held immediately after the organization of the Corporation, and said Directors shall serve for one year and until their successors are elected.

Ninth: The Board of Directors are empowered to ordain and establish all by-laws and regulations necessary to the management and business of said Corporation, and alter and repeal same at pleasure.

Tenth: The first meeting of said Corporation for organization shall be held in Hartford, Arkansas at the office of Spradling and Dodd at 10 o'clock A. M. on the 13″ day of November 1905,

The subscribers hereto waive notice of said meeting.

In Testimony Whereof, We have hereunto set our hands on this, the 13″ day of November, 1905.

JOSEPH M. SPRADLING,
J. L. SPRADLING,
JESSE A. HARP.

Certificate.

Whereas, Joseph M. Spradling, J. L. Spradling and Jesse A. Harp have associated themselves together as a body politic and corporate, to be known as

Sebastian County Coal Company.

And, Whereas, The said Corporators, being the sub-
4229 scribers to the Capital Stock of the said Corporation, have waived the fifteen days' notice as required by law and called a meeting for organization, to be held in Hartford, Arkansas at the office of Spradling & Dodd at 10 o'clock A. M. on the 13″ day of November, 1905.

Whereas, At the time and place above set out a meeting of the subscribers aforesaid was held to organize said Corporation and elect three directors; and,

Whereas, At said meeting the following gentlemen were elected Directors, to-wit:

Joseph M. Spradling, J. L. Spradling and Jesse A. Harp.

Whereas, At a meeting of the said Board of Directors Joseph M. Spradling was elected President, and Jesse A. Harp was elected Vice-President, and J. L. Spradling was elected Secretary, and.....Treasurer,

Now, Therefore, the said Joseph M. Spradling as President, and the Said J. L. Spradling and Jesse A. Harp as Directors, do in pursuance of law issue this their Certificate, verified by their oaths, and do hereby certify as follows:

First: Said Corporation is formed for the purpose of buying, leasing and selling coal lands; mining, buying and selling coal; buying and selling merchandise; building and equipping railroads, and any other business in any way germain to any of the branches above enumerated.

Second: Its Capital Stock is twenty five hundred Dollars divided into shares of $25 each.

Third: Twenty-five hundred Dollars of said Capital Stock have been actually paid in by the subscribers hereto.

Fourth: The names of the stockholders and the number of shares owned by them, respectively, are as follows:

4230 Names	No. of Shares.
Joseph M. Spradling	ninety-eight
J. L. Spradling	one
Jesse A. Harp	one

In Testimony Whereof, the said Joseph M. Spradling President of the said Corporation, and J. L. Spradling and Jesse A. Harp a majority of the Board of Directors of said Corporation, have hereunto set their hands on this 13" day of November 1905.

JOSEPH M. SPADLING, President.
J. L. SPRADLING
JESSE A. HARP,
Directors.

State of Arkansas
County of Sebastian—ss.

Joseph M. Spradling, J. L. Spradling and Jesse A. Harp On their oaths say that the matter and things in the foregoing certificate set out are true, to the best of their knowledge and belief.

(Signed) JOSEPH M. SPRADLING
J. L. SPRADLING
JESSE A. HARP

Subscribed and sworn to before me this, the 13" day of November 1905.

In Testimony Whereof, I have hereunto set my hand and seal of office.

(Seal) G. W. DODD, Notary Public.

My commission expires 9-29-1907.

These articles must be filed and recorded with County Clerk before filing in the office of the Secretary of State.

4231 Certificate Of Record.

State of Arkansas,
County of Sebastian,
Greenwood District—ss.

I, T. N. Reed, Clerk of the County and Probate Court of Sebastian County, in the State aforesaid, do hereby certify that the foregoing instrument of writing was filed for record in my office on the 15 day of November, A. D. 1905 and the same is now duly recorded in Record Book Vol. "B" Page 102.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of Said Court this 15th day of Nov. 1905.

T. N. REED, Co. Clerk.
By Jno. H. Reed, D. C."

Mr. Grant: Next is Defendants Exhibit 37, certificate of the Secretary of State showing the date that the Bache-Denman Coal Company, of West Virginia, entered the State of Arkansas.

Mr. Drinker: We object to the statement of counsel as to what this shows. The paper will show in each one of these cases.

Mr. Grant: All right.

Mr. Drinker: This merely shows that the original of something was filed in the Recorders Office in Arkansas on a certain date.

The Court: The Court will determine what it shows; it is competent if it shows anything.

(Said Exhibit No. 37, so offered in evidence is in words and figures following, to-wit:)

Defendants Exhibit 37.

"State Of Arkansas,
Department of State

4232 Tom J. Terral, Secretary of State.

To All to Whom These Presents Shall Come, Greeting:

I, Tom J. Terral, Secretary of State of the State of Arkansas do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of

Bache-Renman Coal Company

of Fort Smith, Arkansas

A West Virginia Corporation

The original of which was filed for record in this office on the 3rd day of June, 1907.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal. Done at office in the City of Little Rock, this 31st day of August, 1917.

(Seal) TOM J. TERRAL,
Secretary of State."

Mr. Grant: Next is Defendants Exhibit 38, of the Coronado Coal Company, a West Virginia corporation.

(Said Exhibit 38, so offered in evidence is in words and figures following, to-wit:)

Defendants Exhibit 38.

"State Of Arkansas,

Department Of State

Tom J. Terral, Secretary of State.

To All to Whom These Presents Shall Come, Greeting:

I, Tom J. Terral, Secretary of State of the State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of

Coronado Coal Company

of Fort Smith, Arkansas.

A West Virginia Corporation.

4233 the original of which was filed for record in this office on the 3rd day of June 1907.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at office in the City of Little Rock, this 31st day of August, 1917.

(Seal)"

TOM J. TERRAL,
Secretary of State.

4234 Mr. Covington: Now, I offer in evidence the deposition of Mr. M. F. Purcell taken at Billings, Montana, and I ask that it be considered read.

Mr. Drinker: We cannot remember it off-hand, your Honor.

Mr. Covington: All right, we will read it.

Mr. Grant (reading):

"M. F. PURCELL,

Direct Examination

By Mr. Covington:

Q. State your name and place of residence.

A. M. F. Purcell, Billings, Montana.

Q. What is your business?

A. Commissioner and Secretary & Treasurer Montana Coal Operators Association.

Q. How long have you been Commissioner and Secretary & Treasurer of the Montana Coal Operators Association?

A. Five years.

Q. In what business were you engaged prior to entering upon your duties as Commissioner for the Montana Coal Operators Association?

A. I was International Executive Board Member of the United Mine Workers of America, and organizer.

Q. How long were you an organizer for the National Organization?

A. I was an organizer for one year, and National Executive Board Member for four years.

Q. What period did your business as National Organizer cover, the year?

A. The year between March 1, 1911 to April 1, 1912.

Q. In what years were you a member of the National Executive Board of the United Mine Workers?

A. From 1906 to 1911, and from April 1, 1912 to July 1, 1912.

Q. What states, if any, other than the state of Montana, did your duties of National Organizer call you to dur-
4235 ing the year that you were so engaged?

A. During the year I was organizer?

Q. Yes, sir.

A. Washington, Montana, Wyoming and British Columbia.

Q. At the time you were a Board Member, was Wyoming part of this District, I mean the Montana District?

A. Part of the time.

Q. How long were you connected with the United Mine Workers in any capacity, as a member, and official capacity?

A. From 1903 to 1912.

Q. During the period from 1903 to 1912 did you have occasion to visit any section of the country in which non-union mines were operated? A. Yes, sir.

Q. Do you know the conditions under which a non-union mine is operated and also conditions under which the union mine is operated? A. Yes, sir.

Q. It is alleged by the plaintiff in this case that non union mines are operated upon an efficient basis, therefore coal can be produced cheaper than it can be produced by union mines, will you state the points of efficiency in a non-union mine that does not exist in a union mine whereby coal can be produced cheaper than by union mines?

A. I don't know of any.

Q. Is there a difference in the conduct and operation of a coal with union and non-union labor?

A. That would depend on circumstances. The mine cannot be operaated by unon and non union, [ecept] it is conducted as an open shop mine. Under those conditions half may be union and half may be non-union.

Q. What is, if you know, the essential difference in operating a mine with non-union and union labor?

4236 A. Well, there is considerable difference at times, at a non-union mine for instance, there is no redress for, say for instance, a man is discharged for cause, or without cause, he has no recourse only to accept his discharge, while in the union mines they have a system of taking up a case in question and if the man was wrongfully discharged he is generally granted redress, while in non-union mines he has no redress, he has simply to take the orders of the mine foreman or who-

ever discharges him; the same applies to any general dispute in regard to his work.

Q. Taking as a basis your experience of nine years with the United Mine Workers of America, your five years experience as Commissioner of the Operators Association of this state, can you say whether there is a difference in the cost of production in union and non-union coal?

A. You are referring to this state?

Q. Any place where you have been?

A. There is no difference in this state and adjoining states. There was a difference existing in southern states, but as to the cost of production in those states I am not familiar and can't say whether the cost is any more in the union and non-union mine in those states.

Q. In the states of Wyoming, Montana, and Washington, have you had occasion to be present at any of the conferences held in all or any of the states named, in which wage scales were discussed and agreed upon?

A. Yes, sir, in all of them.

Q. What composes the conferences of the miners and operators by way of representation?

A. The conference is composed of delegates from the
4237 miners organization and delegates from the coal operators association.

Q. Are the delegates from the operators association delegated with general or special authority in the matter of making contracts with the miners, those who are delegated to attend these conventions referred to?

A. The delegates from the operators association are delegated with authority to negotiate agreements with the miners' representatives.

Q. Does this authority include the right of the delegate representing the operators association to enter into any kind of an agreement, contract or understanding with the miners to obstruct, hinder and delay transportation of non-union coal or to destroy the means of producing it?

A. It does not.

Q. Does the authority given the delegates of the operators association who attends these conferences looking to the making of a wage scale, authorize or empower them to enter into any kind of an agreement or understanding in regard to fixing the prices of coal in the markets or the keeping of the product of non-union mines off the market?

A. It does not, we have no authority to make any agreement or arrangement in regard to the selling price of coal or the stopping of coal from the market.

Q. Have you, in any of the states named, in any of the conferences referred to by you, ever entered into any agreement, contract or understanding by which the United Mine Workers of America were to resort to all means within its power, by strikes, lawlessness, intimidation, murder and arson, to keep non-union coal off the market?

A. They never have.

4238 Q. Have the operators and miners, United Mine Workers of America, in any of the states named by you, at any time since you have been connected with the miners organization or with the operators association of Montana, ever entered into any agreement, contract or understanding by which the United Mine Workers and others acting in conjunction with them, were to protect the interstate trade and business of union mines and were to employ all the means available to organized labor to prevent the production, loading and shipment of coal by interstate trade and commerce by unorganized mines?

A. They never did.

Q. Have you copies of the various contracts entered into by the operators association represented by you, with the United Mine Workers of America since you became associated with the Operators Association? A. I have.

Q. How many contracts have been entered into between your coal operators association and the United Mine Workers of America since you have represented the association as its Commissioner Secretary & Treasurer?

A. There has been three.

Q. Can you furnish us copies of the three contracts referred to that they may be attached to your deposition as exhibits?

A. I can.

Q. I hand you exhibit "A" to your deposition and ask you what it is?

A. The agreement agreed to between the United Mine Workers of America, District 27, of Montana and the Montana Coal Operators Association for the years beginning October 1, 1912 and ending September 30, 1914.

Q. Have you a copy of your agreement covering the period of 1910 to 1912.

4239 A. I presume I have in the office, I haven't here. I have practically all agreements made in the state of Montana, but only one copy of some.

Q. Is the contract here marked Exhibit "A"' to your deposition the contract entered into by the representatives of the coal operators association and representatives of the United Mine Workers of America in the District of Montana?

A. It is.

Q. Does Exhibit "A" embrace all the terms of the agreement entered into for the period covered by it?

A. It does.

Q. Was there any outside or supplemental agreement between the operators and the United Mine Workers touching any other question whatever?

A. None."

4240 Mr. Grant: We now offer in evidence the exhibits referred to A, B and C, attached to this deposition, and ask that they be considered read.

The Court: They may be considered as read and referred to by either side.

(Said Exhibits A, B and C, so offered in evidence are in words and figures following, to-wit:)

Exhibit A.

"Note.

In Section 1, Paragraph A, where it reads mid-night, it should read mid-shift.

In section 26, on line 2, where it reads Leaders, it should read Loaders.

In Section 27, on line 5, where it reads Laborers, it should read Loaders.

Agreement
between
Montana Coal Operators'
Association
and
United Mine Workers of America
District No. 27, Montana
Year Commencing October 1, 1912
Ending September 30, 1914.
For Mines in Montana.

Great Falls, Mont., Oct., 1, 1912.

It is hereby agreed between the Montana Coal Operators' Association, on the one hand, and the representatives of the United Mine Workers of America and their District 27, on behalf of their organization, on the other hand, that the
4241 following scale of prices and the following rules and conditions shall be in effect for two years, commencing October 1st, 1912, and terminating September 30th, 1914.

And it is further agreed that the parties to this contract shall meet at a place and time to be decided by the Joint Executive Board for the purpose of formulating another agreement. This agreement applies only to the mines being operated in the State of Montana.

General Provisions.

Hours of Labor.

Section 1 (a). It is definitely understood that this agreement is based on an eight hour day. An eight hour day means, eight hours work at the usual working place, exclusive of one-half hour for mid-night lunch, six days a week, when required by the operators, Sundays and legal holidays excepted.

(b). However, this does not prohibit engineers, rope riders and motor men from working the time necessary to hoist and lower men and material. All such hours worked over eight shall be paid for at the Scale rate of an eight hour basis.

(c). In case of emergency, which means any unlooked for event that would tend to impede the operation of the mines the following shifr, the operators shall have the right to work the men necessary to put the mine in proper condition.

(d). Drivers shall work full eight hours in their respective places and take their mules to and from the stables and the time for so doing shall not be included as part of the day's labor, provided that not more than fifteen minutes is required in going to or returning from his working place and stable.

Price of Powder.

Section 2. Black powder is to be sold to the miners at
4242 $2.40 per keg, giant powder 20 cents per pound, three x caps 75 cents per one hundred, four x caps 80 cents per hundred, five x caps $1.00 per hundred, double tape fuse 75 cents per hundred feet.

From and after January 1, 1913, all black powder sold to employees by the company or its authorized agents will be delivered to a suitable storage receptacle at the inside parting nearest to the working place, the company's responsibility to cease when this is done. The mine foreman and pit committee may agree on a suitable person to take charge of the key to each receptacle.

Where there is no parting on the entry the powder receptacle will be placed within one thousand feet of the outside

working room or the miner shall have his powder delivered to his working place. The question of tool cars to be taken up locally.

Pay Day.

Section 3. Pay day shall be semi-monthly, on or before the first Saturday after the 14th of each month, for the last half of the preceding month and on or before the first Saturday after the last day of each month for the first half of the month.

The matter of paying in currency may be taken up locally by the Local Union and the Mine Management, to the end that a satisfactory arrangement may be affected. At camps where payment is made in currency it is understood that employees shall call for their pay on pay day, otherwise accept checks. Company will issue itemized statements two days prior to pay day.

Hospital.

Section 4 (a). The affairs of the doctor or doctors and hospital at each camp or group of camps shall be handled by a commission consisting of four members, three of whom
4243 shall be elected by the Local Union and one to be named to represent the employees not members of the Union. The Companies agree to make such deductions per capita as are agreed on by the Commission and Local Union and turn same over to the Hospital Commission.

(b). Should any doctor or doctors be discharged by a majority vote of those paying into the fund and the vote cast as arranged for by the Hospital Commission, it shall require a unanimous vote of the Commission to select another doctor or doctors. All complaints against the doctors must be presented to the Commission and investigated by them, the doctors being given opportunity to defend themselves. No contract shall be made with any doctor which extends beyond the life of this agreement.

Any doctor who uses any unfair means of bribery to obtain the support of the members of the Local shall be debarred from the position of doctor.

(c). In camps where the Union or miners now have control of the hospital arrangements or funds the arrangements shall remain as at present.

Check-Off.

Section 5. The operators agree to check off all Union dues, assessments, initiation fees and such fines as are provided for in this agreement, or as may be agreed upon by the Eistrict

President and the Coal Operators' Commissioner or their authorized representatives from all miners and mine laborers in and around the mine when requested by the Local of the U. M. W. of A.

In order to protect the operators the U. M. W. of A. agrees to furnish individual orders authorizing the company to make such deductions.

4244 It is understood that after fuel charges and the pit expenses for powder, smithing and a proper proportion of mine tools are deducted, the operator will give preference to the regular dues and also not to exceed $5.00 in any one pay for assessment, fines and initiations.

The operator will furnish to the miners' local representative a monthly statement showing separately the amount of dues, assessments, fines and initiation fees collected and also showing those from whom dues and assessments have not been collected.

In case any fine is imposed, the propriety of which is questioned, the amount of such fine shall be held by the operators until the case has been taken up for adjustment and a decision reached.

Adjustment of Disputes.

Section 6 (a). The operators shall recognize the Pit Committee in the discharge of their duties as provided in this agreement. The duties of the Pit Committee shall be confined to the adjustment of disputes between the pit boss or foreman having proper jurisdiction and any member of the U. M. W. of A. working in or around the mines, arising out of this agreement, the pit boss or foreman and said miner or mine laborers having failed to agree.

(b). In case of any local trouble arising in any mine through such failure to agree between the pit boss or foreman having proper jurisdiction and any miner or mine laborer, the Pit Committee and the Pit Boss or Foreman are empowered to adjust it, and in case of their disagreeing it shall be investigated by the Local Executive Board and if they find merit in the case they shall take it up with the superintendent of the company or his representative
4245 and if they fail to agree it shall be referred to the manager of the company or the commissioner of the Montana Coal Operators Association and the district president of the U. M. W. of A. or his representative for adjustment; but in all cases the miners, mine laborers and parties

involved must continue at work pending an investigation and adjustment until a final decision is reached in the manner above set forth.

(c). If any day man refuses to continue work because of a grievance which has or has not been taken up for adjustment in the manner provided herein, and such action shall seem likely to impede the operation of the mine, the Pit Boss or Foreman with the approval of the Pit Committee, shall immediately select a man or men to take such vacant place or places, at the scale rate, in order that the mine may continue at work and it shall be the duty of any member or members of the United Mine Workers who may be called upon by the Pit Boss or Foreman, with the approval of the Pit Committee, to immediately take such place or places assigned him or them, in pursuance hereof.

(d). The Pit Committee in the discharge of its duties shall, under no circumstances, go around the mine for any cause whatever, unless called upon by the Pit Boss or by a miner or company man who may have a grievance that he has first tried to and cannot settle with the Boss. Any Pit Committeeman who shall attempt to execute any local rule or proceeding in conflict with any provision of this contract, or any other made in pursuance thereof, shall be forthwith deposed as Committeeman.

(e). Members of the Pit Committee employed as day men shall not leave their places of duty during working hours, except by permission of the operator, or in cases involving a stoppage of the mine.

4246 (f). The right to hire and discharge, the management of the mine and the direction of the working forces are vested exclusively in the operator and the U. M. W. of A. shall not abridge this right. It is not the intention of this provision to encourage the discharge of employes or the refusal of employment of applicants because of personal prejudice, or activity in matters affecting the Company or the U. M. W. of A.

(g). If any employee shall be discharged or suspended by the Company and it is claimed that an injustice has been done, an investigation to be conducted by the parties and in the manner set forth in Paragraphs A and B of this section, shall be taken up promptly and if it is proven that an injustice has been done the operators shall reinstate said employee and pay him full compensation for the time he has been suspended and out of employment, provided, however,

if no decision shall be rendered within five days the case shall be considered insofar as compensation is concerned, unless said failure to arrive at a decision within the five days is owing to a delay on the part of the operator, in which case the maximum of ten days' compensation shall be paid and if the matter has to be referred to three members of the Executive Committee of the Montana Coal Operators Association and the District Executive Officers of the U. M. W. of A., then in such case the maximum of fifteen days' compensation shall be paid. It is agreed that the Local Executive Board of the U. M. W. of A. shall investigate the merits of all grievances before sumbitting them to the Superintendent.

(h). When trouble of a local character arises between the members of the Local Union and their local employes and they are unable to adjust it satisfactorily as pro-
4247 vided in Paragraph B of this section, it shall be referred to three members of the Executive Committee of the Montana Coal Operators Association and the three district executive officers of the U. M. W. of A. for decision. In the event of their failure to settle the matter satisfactorily it shall be referred to the International President or the International Executive Board of the U. M. W. of A. and the Manager of the Coal Company, or the Commissioner for final decision. In any event, the Local Union shall remain at work until the International President or the International Executive Board and the District Executive Officers have authorized a strike.

Construction Work and Repairs.

Section 7. The erection of head frames, buildings, scales, and machinery, railroad switches, etc., necessary for the completion of a plant for loading coal, all being in the nature of construction work, are to be excluded from the jurisdiction of the U. M. W. of A. Repairs to or rebuilding of same class of work shall be included in the same exception. Employees thereon to be excluded as above when employed on such work.

Tool Sharpening.

Section 8. Where the Company does the sharpening the price of blacksmithing shall be one per cent of the gross earnings, the miners' tools to be given preference over all other work done by the blacksmiths and tools shall be sharpened in a workmanlike manner. Present practice as to repairs to continue.

Penalties for Loading Impurities.

Section 9. The Companies may designate a competent person to act as Coal Inspector, said Inspector shall be a member of the U. M. W. of A. In case rock, slate, bone clay, sulphur or other impurities are loaded by miners or loaders, said Inspector shall estimate weight thereof and cause same to be deducted from the established weight of the car. For any aggravated or malicious offense or where three offenses occur within thirty consecutive days the miner or loader so offending may be indefinitely suspended or discharged.

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Penalty for Stoppage of Work.

Section 10. If any employee or employees shall cause stoppage of work in violation of this agreement he or they shall be subject to discharge by the Company without recourse.

Preference in Employment.

Section 11 (a). In case an employee is thrown out of employment he shall be given preference in same or other mines in the same camp operated by the same company. When a part of a mine is closed down, the old employees among the contract miners and also among the different classes of day men shall be given preference in the remaining work. Employees shall report for work within three days after the mine resumes operation. Employees who accept or secure employment at other mines forfeit their rights for reemployment.

(b). When hiring new men the operator or his representative shall give preference to card bearing members of the U. M. W. of A. when such transfer cards are produced. This section shall not prevent the hiring of other men when there are no Union men applying for work, nor shall it be construed to compel the employment of inefficient men.

Repairs and Emergency Work.

Section 12. It is definitely understood and agreed that an eight hour day means eight hours' work in the mines at the usual working places. Six days a week, when required by the operators, Sundays excepted; but this rule does does not apply to those men whose employment requires them to work seven days in the week, or the making of necessary repairs. New Year Day, April First, Fourty of July, Labor Day, Thanksgiving Day and Christmas Day shall be observed as holidays.

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Removal of Water and Furnishing of Supplies.

Section 13. The Company shall keep the mine in as dry a condition as practicable by keeping the water off the road and out of the working place. When a miner or loader is unable to work at his usual working place on account of the Company's negligence in failing to remove water from the working place or supply him with material that they have agreed to furnish him, they shall employ said miner or loader doing Company work where practicable, or he shall be given another working place, equal to the average place of the mine if such place is available, until such water is removed or material supplied him.

Deficient Places.

Section 14. All deficient places may be driven at a price to be decided upon between the Pit Boss and the miners working in such places, provided an agreement can be reached that is satisfactory to both parties. Where the deficient condition appears to be more or less continuous, said agreement to be in writing and copies sent to the District President and the Commissioner of the Montana Coal Operators Association.

In the event of no agreement being reached the miners shall be provided with other places in the mine if available and the Company shall then have the privilege of further driving the deficient places either by special contract with other miners or by day's work, as it sees fit. It is agreed that no miner shall be discharged on account of fail-
4250 ure to agree upon a price for deficient work. Where miners or loaders are required to drive more than 30 feet of crosscut from one side they shall be paid entry price per yard for all distance in excess of 30 feet.

Delivery of Cars.

Section 15. Miners or loaders shall not be required to push their cars more than one hundred feet and in cases where the roadway is so steep that the man or men working in the room cannot push the cars they shall be delivered at the face by the driver. This rule does not affect rooms where the cars are operated by McGintys.

No Conditions to Conflict with Agreement.

Section 16. No Locals or Companies shall be allowed to make or enforce any conditions which conflict with the terms of this agreement or to change any existing conditions not changed or provided for in this agreement. In case of con-

ditions arising locally requiring any modification of this agreement or change in existing conditions such modifications or changes shall be mutually agreed upon by the District Executive Officers of the U. M. W. of A. and the Executive Committee of the Montana Coal Operators Association.

Check Weighment.

Section 17. Miners may elect a check weighman who must be an employe of their mine at the time of and for at least three months previous to his election, and the Company shall furnish him with a check number and he shall credit to his number such portion of each miners or loader's coal as may be necessary to pay his wages. In mines where the men are unable to support a regular check weighman
4251 they shall have the right to elect a miner or loader employed at that mine to act as temporary check weighman when necessary, and the Company shall give any man so elected his work back at the end of his labors as check weighman.

Miners on Other Work.

Section 18. An employee taken from the face to do other work shall be paid miners' schedule pay while so employed and in no instance shall he be paid less than the maximum wages for the class of work at which he is employed.

Deaths and Funerals.

Section 19. In the event of an instantaneous death by accident of a miner or employee while in the discharge of his duty or other employees in the entry or at the place where the accident occurred may individually or collectively discontinue work for the remainder of that day, but work at the option of the operator, shall be resumed on the day following and continue thereafter. When death has resulted from an accident in and around the mine, individual employees may absent themselves from work for the purpose of attending funeral of the deceased, but not otherwise. Each employee of the mine where the deceased employee was employed shall contribute one dollar and the operator shall contribute fifty dollars for the benefit of the family of the deceased or his heirs, said contribution to be deducted on the pay roll. The money so collected shall be turned over to the local Secretary-Treasurer of and representing the U. M. W. of A., who shall sign a receipt for such money and all money so collected shall be used only for the purpose above specified, except in cases of accident as above, the mine in

no cases shall be thrown idle because of any death or funeral, but in the case of the death of an employee of the
4252 Company or member of his family, an individual employee at his option may absent himself from work for the purpose of attending such funeral, but not otherwise.

Penalty for Absence from Work.

Section 20. When an employee absents himself from his work for a period of two days or persists in working irregularly, unless through proven sickness, or by first having properly arranged with the Pit Boss or Foreman and obtained his consent, he may be discharged without recourse. Miners or other employees unable to work, unless on account of proven sickness, must notify the Pit Boss or Foreman at once. All employees whose absence would cause a stoppage of work must before absenting themselves from work properly arrange with the Pit Boss or Foreman for their absence, otherwise they may be discharged without recourse.

Grade of Miners' Oil.

Section 21. The use of Black or Kerosene Oil as an illuminant in the mine is prohibited. If any employee other than driver, rope rider or motorman burns oil mixed with kerosene he shall be subject to a fine of one dollar for the first offense, two dollars for the second offense and may be discharged for the third offense. This money shall be collected through the company office and all money so collected shall be equally divided between District No. 27 U. M. W. of A. and the Montana Coal Operators Association.

Wrecked Cars.

Section 22. Miners and loaders shall load pit cars in a careful manner. The Mine Foreman and Pit Committee may agree upon a maximum height to which cars may be loaded. All loaded cars of coal which have been
4253 dumped by getting off the track or otherwise wrecked shall be paid for at the average weight of said miner's cars weighed that day. All wrecked cars shall be marked by drivers, rope riders, motormen and those handling cars by placing some suitable mark thereon indicating that they have been wrecked, as directed by the Company.

Engineers.

Section 23 (a). In case of either local or general suspension of work either at the expiration of this contract or otherwise the engineers, firemen, pumpmen and others required by

the Company for protection of property shall not suspend work but shall, when mining is suspended, fully protect the Company's property under their care and shall operate fans and pumps and lower and hoist such men and supplies as may be required to keep up steam at the Company's coal plant, provided, that no such employee is discharged or suspended in order to make room for a non-union employee. It is understood and agreed that the operator will not ask them to hoist any coal produced other than that required for the operation of the plant.

(b). No engineer shall be subject to the authority or supervision of the Pit Committee, but in case of any disagreement which he cannot settle with the Foreman and Local Executive Board, the subject shall be taken up by the District President or his representative and the Coal Operators' Commissioner for adjustment. All engineers shall do their own firing or any other work connected with the machinery assigned them by the operator in places where it is practicable and their duties as engineers do not prohibit their so doing. This clause shall not be construed to mean that an engineer can be used on idle days to the exclusion of a regular fireman or other employee.

(c). In case of a suspension of work pending a settle-
4254 ment, all engineers, fireman, pumpmen and other employees engaged in protecting property shall be paid the scale finally agreed upon.

Penalty for Inducing Men to Quit Work.

Section 24. Drivers or other employees found guilty of inducing miners or laborers to leave the mine before the regular time for quitting will be subject to discharge. Where the mine only runs part of the day, the miners and loaders shall be notified by the foreman or drivers and no shooting shall be done for one hour after the mine has shut down.

Supply of Cars.

Section 25 (a). The operator shall see that an equal turn is offered each miner, and shall so regulate the number of miners and loaders in the mine that each one shall be offered a fair turn under normal conditions. When any difference arises locally as to what constitutes a fair turn, the District President and the Operators' Commissioner shall go to the locality and determine what shall constitute a fair turn in accordance with this section.

(b). The check weighman shall keep a turn bulletin for the turn keeper's guidance. The drivers shall be subject to whomever the Mine Manager shall designate as turn keeper in pursuance thereof.

(c). Any miner shall be considered as having loaded the highest turn offered in the run in which he works each day, whether he is present at work or not. In the event he is hindered from loading the same through some unavoidable circumstance, it shall be the duty of the driver in charge of that run to make up such cars, provided the miner is able to load same, unless he has been otherwise provided for
4255 by contract or or days work.

(d). Should any run become more than two days' turn either ahead or behind, the aerage turn of the mine during six consecutive weeks, the management shall so regulate the driving that such runs shall be either made up or held back as the case may demand, and should the management fail within ten working days to remedy such conditions then the men in the run having the highest turn shall be suspended from loading coal until same is remedied. This does not apply in mines having an unlimited turn.

(e). In no way shall the miners or mine workers restrict the number of cars loaded by the miner.

(f). In mines where there is both hand and machine mining an equal turn shall mean approximately the same turn to each man in the machine part of the mine and approximately the same turn to each man doing hand work, but not necessarily the same to each hand miner as to each man working with the machines.

Responsibility for Careless Timerbing or Shooting.

Section 26. It shall be the duty of all miners and leaders to care for their working place in a proper manner. In case of a fall in a miner's or loader's place for which he is not responsible or which is due to the Company's negligence in failing to supply material to properly timber or care for said place, the Pit Boss shall have such fall removed or have men working to remove such fall within a reasonable time after receiving such notification. It is understood that every effort should be made by the Foreman and miners affected to come to an agreement and that preference be given the miners to do the work, provided an agreement can be
4256 reached to the end that the place affected be cleaned up as soon as practicable. If any miner or loader shall

fail to properly timber, shoot and care for his working place and such failure has entailed falls of rock, slate and the like, the miner or loader whose fault has occasioned such damage, shall repair the same without compensation and if such miner or loader fails to repair the damage he may be discharged. All other tmeployes to give proper care to the duties to which the Foreman may assign them. It is further agreed that where cars or other equipment are damaged through carelessness either in blasting or otherwise the miner or loader shall pay for such damage. In rooms where the Mine Foreman directs the miner or loader to place cross bars to permanently secure the roadway, then, and in such cases only, the miner shall be paid for each cross bar when properly set. The foregoing does not contemplate any change from the ordinary method of timbering by the miner and for his own safety.

Laying Track.

Section 27. The Company shall lay all permanent tracks in entries and miners and loaders shall lay entry and room rails as at present. The miners and laborers shall maintain and repair the track one hundred feet from the face, provided, however, that when a miner or loader is asigned a working place operated there before by another miner, then the company shall place track in the same in first class shape. This clause does not apply to mines where the Company is laying and maintaining tracks at present for contract miners and loaders.

Working Idle Days.

Section 28. No miner or loader shall be allowed to work in rooms on idle days making or loading coal. In cases where the mines are working three days or less a week and it 4257 is necessary to push development work full time, the development work shall be divided among the miners working in said mine, but it is understood the same rate of advancement of entry shall be maintained by the new men and the Company shall not be called upon to settle any disagreement between the men. On idle days the day work shall be divided, as far as possible, between the day men engaged on similar work.

Man Trips.

Section 29. The running of man trips and the manner and time of so doing will be arranged by each local superintendent and local union.

Employees Working Both Inside and Outside.

Section 30. Employees whose duty is both inside and outside the mine, shall be classed as inside employees.

Care of Injured.

Section 31. All Companies shall keep sufficient blankets, oil, bandages, cots, etc., readily available at each mine to properly care for and convey injured persons in some suitable conveyance to their home or hospital after an accident. A room suitable for the temporary care of the injured shall, where it is necessary, be provided at each mine by the Company.

Right of Purchase.

Section 32. The employees shall have a right to buy where they please, without discrimination, but all powder, caps and fuse used in the mines must be of some standard brand and the grade thereof must conform to that customarily used in the mine and be satisfactory to the operator. This provision will not be used to prevent the testing of another grade when mutually agreed to.

New Mines.

4258 Section 33. When new mines are opened and developed during the life of this contract, or old mines desire to change the mining conditions, the question of mine rates and conditions shall be referred to the Commissioner of the Montana Coal Operators Association and the District President of the U. M. W. of A. and approved by them before any such rates are established. In the event of their failure to agree, the matter shall be decided by the joint executive committee of the U. M. W. of A. and the Montana Coal Operators Association.

Shooting Time.

Section 34. In mines where it is customary to shoot only once a day there shall be no shooting sooner than fifteen minutes before quitting time except by special permission.

Employees Not Under Jurisdiction of U. M. W. of A.

Section 35. No scale of wages shall be made by the U. M. W. of A. for Mine Boss, Assistant Mine Boss, Top Foreman, Company Weigh Boss, Boss Driver, Night Boss, Head Carpenter, Watchman, Master Mechanic and Head Electrician. The words "Head Electrician" and "Head Carpenter" shall apply in cases where he has supervision over two or more men performing the same class of labor.

Tools and Materials.

Section 36. The Company shall furnish all necessary supplies, such as rails, ties, timber and other material at each working place as required. They shall also furnish all necessary tools to company men, provided, however, that they exercise the necessary caution in caring for the same. Any one of these employees losing or destroying tools through carelessness or negligence shall replace the same at his own
4259 expense. This does not mean that the Company shall furnish tools to carpenters, machinists or others who generally furnish part or all of their own tools.

Regulating Night Shift.

Section 37. Where men are employed night shift continuously they shall be given preference over new men on day shift, provided they are competent to do the work.

Contract Not to be Voided by Miners' Constitution or Rules.

Section 38. This contract is in no case to be set aside because of any rules of the U. M. W. of A. now in force or which may hereafter be adopted, nor is this contract to be set aside by reason of any provision in their National, State of Local constitutions. Neither shall the Montana Coal Operators violate said agreement.

Enforcement of Contract.

Section 39. This contract being mutually agreed to it is definitely understood that it is equally binding upon the two organizations to see that its written provisions are adhered to. When any evasion of this contract by either the miners or operators is brought to the notice of the District President and the Operators Commissioner it shall be their duty to see that its terms are complied with.

Scale of Day Wages.

Outside.

	per day.
Engineers, first class,	$4.00
Engineers, second class and box car loader engineers,	3.50
Water tender,	3.35
Fan fireman,	3.35
4260 Blacksmiths,	4.00
Tool sharpeners,	3.75
Blacksmith helpers,	3.00

Carpenters,	3.90
Car repairers,	3.65
Car repairers' helpers,	3.00
Machinicits, first class,	4.00
Machinists, second class,	3.50
Coal Inspector,	3.15
Drill boys, minimum,	1.80
Firemen,	3.35
Head brakemen,	3.30
Other brakemen,	3.00
Electricians, first class, in and around the mine,	4.00
Electricians second class, in and around the mine,	3.50
Rope cutters, when so specially engaged	3.15
Drivers,	3.15
Head dumpers,	3.15
Other tipple men,	3.00

	Per month.
Barnmen in charge of more than fifteen head of stock	95.00
Barnmen in charge of less than fifteen head of stock,	80.00
Assistant barnmen,	70.00

	Per day.
Teamsters,	3.15
Head breakermen,	3.00
4261 Other breakermen,	3.00
Boys on picking tables, minimum,	1.55
Men on picking tables,	2.90
Boys in breakers minimum,	1.55
Jig men,	3.25
Other washerman,	3.00
Greasers	2.50
Oiler and wiper,	3.15
Timber framer,	3.15
Box car shoveler,	3.15
Motormen,	3.60
Outside labor not classified,	2.90

Scale of Day Wages.

Inside.	Per day.
Miners,	3.80
Timbermen,	3.80

	Timbermen's helpers,	3.40
	Track layers,	3.80
	Track layers' helpers,	3.40
	Bratticemen,	3.75
	Shooters or shot firers,	3.75
	Machine runners,	3.90
	Machine runners' helpers,	3.40
	Drillers,	3.75
	Drillers' helpers,	3.40
	Machine repairer	4.00
	Head pipe men	3.75
	Pipe men	3.40
	McGinty repairer, rope splicer,	3.75
	Drivers,	3.60
4262	Team Drivers,	3.75
	Motormen,	3.60
	Inside engineer,	3.40
	Parting men and connection men,	3.40
	Rope riders,	3.40
	Rope riders, main rope,	3.75
	Jack man,	3.60
	Greasers,	2.35
	Flaggers,	2.25
	Boy couplers on partings,	2.35
	Pulley repairers,	3.75
	Trappers,	1.70
	Pick carriers,	2.25
	Barnmen,	3.50
	Pumpmen,	3.75
	Inside labor not classified,	3.40

Red Lodge

Scale of Mining Rates and Local Provisons.

Mining Rates.

Veins 4 and 5, per ton of 2,000 pounds, mine run, 65 cents.

Vein No. 2, per ton of 2,000 pounds mine run, 69 cents.

Vein Nos. 1. 1½, and 6, per ton of 2,000 pounds mine run, 77 cents.

Crosscuts in entries and rooms, $1.60 per yard.

Entries driven by hand, $3.25 per yard.

In 1½ vein an additional 25 cents per yard will be paid where rock is to be lifted in foot wall.

Room turning, $10.00 per room.

Room necks to be 20 feet in length.

Local Provisions.

4263 Lump coal to be delivered to miners at $2.25 per ton.

Mine run coal, delivered to miners at $2.00 per ton.

Washed coal Nos. 1 and 2, delivered to miners at $1.75 per ton.

There shall be a board at the foot of all entries for the convenience of miners to note material needed at working places.

Where veins Nos. 5 and 6 are worked together as at present and the intervening parting is less than six inches thick, fifty cents per lineal yard of 24 foot room driven, will be paid in addition to the No. 5 mining rate; entry yardage will be paid at the rate of $3.41 per lineal yard, cross-cuts will be paid at the rate of $1.70 per lineal yard and room turning will be paid $11.00. Where the intervening rock becomes 6 inches or more in thickness, the local officers and the Company officials will fix a rate of compensation, or rock shall be lifted at day rate.

All slants, where such are used for haulage ways, shall be paid the same price per yard as entries.

Wheel posts shall be paid for as follows: 25 cents for each post set on side and 50 cents for each post set in front of track where they have to be moved. Posts to be set in substantial and workmanlike manner. The company shall keep track in condition so that cars will run.

In Sections of the mine where tracks are carried on ribs, miners shall be given the option of working in such places, or be given a place in other parts of the mine where tracks are in the center of the room.

Timber and caps shall be delivered at a point on the entry within twenty five feet of each room neck. Timbers to be squared on one end. Present system as to cap pieces to continue.

4264 In all pillar work where track is moved or replaced, it shall be classed as shift work. It is agreed that the miners will lift the last pair of rails and move them back

even with the next pair after which their responsibility ceases.

In vein No. 4 cross bars will be paid for as follows:

8 inches at small end, $2.50.

Less than 8 inches, small end, $1.50.

In Veins Nos. 1, 1-½ and 2 cross bars will be paid for as follows:

8 inches at small end, $2.00.

Less than 8 inches at small end, $1.25.

In veins Nos. 1-½ and 2 the following prices will be paid for draw slate or cap rock when same is over 8 inches thick:

From 8 to 12 inches in 30 foot rooms, 50 cents per lineal yard.

From 12 to 18 inches in 30 foot rooms, 80 cents per lineal yard.

From 18 to 24 inches in 30 foot rooms, $1.20 per lineal yard.

From 24 to 30 inches in 30 foot rooms, $1.60 per lineal yard.

From 8 to 12 inches in 20 foot rooms, 40 cents per lineal yard.

From 12 to 18 inches in 20 foot rooms, 60 cents per lineal yard.

From 18 to 24 inches in 20 foot rooms, 90 cents per lineal yard.

From 24 to 30 inches in 20 foot rooms, $1.20 per lineal yard.

When draw slate exceeds thirty inches the place will
4265 be considered deficient.

Coal Ville.

Scale of Mining Rates and Local Provisions.

Pick Mining.

Per ton of 2,000 pounds screened lump, $1.05.

Entries and entry cross cuts, per yard, $3.00.

Room crosscuts per yard, $1.50.

Room turning, $8.00. Room necks to be 10 feet in length.

All slants, where such are used for haulage ways, shall be paid for the same per yard as entries.

Loading after shearing machines where miners do the drilling and shooting in entries, room-necks and break throughs, per ton, screened lump, $1.00; per yard, $1.00.

In rooms sheared by Company where miner does the drilling, shooting, timbering and loading, per ton screened lump, 90 cents.

It is understood that the above prices will not apply to coal mined on the third entries or lower. Should this part of the mine be opened up, prices governing same to be arranged between the Company and the Local Union and District Officers.

Coal delivered at Coalville only to employees $2.50 per ton.

McCarthy Mine.

Scale of Mining Rates and Local Provisions.

Pick Mining.

93 cents per car.

Room turning, $8.00. Room necks to be 12 feet in length.

Entry and entry crosscuts, $3.00 per yard.

Room crosscuts, $1.50 per yard.

All slants, where such are used for haulage ways, shall be paid the same price per yard as entries. Coal to be
4266 sold to employees only, $2.50 per ton.

Stockett.

Scale of Mining Rates and Local Provisions.

Section 1. Machine men, 2.05 cents per square foot. Machine helpers, 1.8 cents per square foot for all places over 12 feet wide. Machine men 3.15 cents per square foot and machine helpers 2.55 cents per square foot for all places 12 feet wide and under. In deficient places machine runner and helper to be made up to average day rate for such class of work. The Mine Committee and pit boss to decide what is a deficient place.

Section 2. Drillers working as partners, price per coal hole, 13 cents each; price for sump hole, 33-½ cents each; price for lifthing bottom holes, 33-½ cents each. Drillers

who are working with helpers, 14-½ cents per coal hole and helpers 11-½ cents per hole. The same conditions to apply to drillers and drill helpers in making up deficient places as for machine men and helpers. Drillers working as partners, when temporarily drilling rock holes, will be paid the day rate provided for drillers.

Section 3. Loading coal. Dry work 26 cents and wet work 27 cents per ton of 2,000 pounds, run of mine. No loader shall load coal in rooms, pillars or entries farther than 10 feet and loaders shall keep all rock nine feet from the face. Where more than the average quantity of rock exists the Company shall furnish men to clean such places.

Local Provisions.

Ground rent, $8.00 per year.

Lump coal, $2.50 per ton delivered.

Sand Coulee.

Scale of Mining Rates and Local Provisions.

4267 Mining Rates.

Section 1. Machine men 2.05 per sq. ft; machine helpers, 1.9 cents per sq. ft for all places over 12 feet wide. Machine men 3.15 cents per sq. ft, and machine helpers 2.55 per sq. ft. for all places 12 feet wide and under. In deficient places machine runners and helpers to be made up to average day rate for such class of work. The Mine Committee and Pit Boss to decide what is a deficient place.

Sec. 2. Drillers working as partners, price for coal hole 13 cents each; price for sump hole 33-½ cents each; price for ligting bottom holes 33-½ cents each; drillers who are working with helpers, 14½ cents per coal hole, and helpers 11-½ cents per hole. The same conditions apply to drillers and drill helpers in making up deficient places as for machine men and machine helpers. Drillers working as partners, when temporarily drilling rock holes, will be paid the day rate provided for drillers.

Sec. 3. Loading coal, dry work, 26 cents, and wet work 27 cents per ton of 2,000 lbs., run of mine. No loader shall load coal in rooms, pillars or entries farther than 10 feet, and loaders shall keep all rock nine feet from the face; where more than the average quantity of rock exists, the Company shall furnish men to clean such places.

Sec. 4. Pick mining, 78 cents per ton of 2000 lbs. run of mine.

Sec. 5. Yardage in entries, $3.00 per yard; crosscuts in entries, $3.00 per yard; crosscuts between rooms, $1.50 per yard; room turning, $8.00, room necks to be 12 feet in length. All rooms 18 feet or under to be worked single.

Local Provisions.

4268 All slants where such are used for haulage ways shall be paid the same price per yard as entries.

Screened coal per ton delivered $2.50.

Ground rent, per year $8.00 for all members of the U. M. W. of A., this to apply to employes of the Nelson-Jenks Coal Co., the Gerber Co., or other coal companies that may become members of the Montana Coal Operators Association.

This scale applies to mines operated by members of the Montana Coal Operators Association.

Belt.

Anaconda Copper Mining Company's Mine. Scale of Mining Rates and Local Provisions.

Pick mining per ton of 2,000 lbs., run of mine, 78 cents.

Loaders, per ton of 2000 lbs., run of mine, 45-½ cents.

Machine operators, per ton of 2000 lbs., run of mine 11-½ cents.

Machine helpers, per ton of 2000 lbs. run of mine 9-½ cents.

Room turning, $8.00, room necks to be 10 feet in length.

Entries and entry crosscuts, driven by machine $3.00 per yard, and 66-½ cents per ton for coal.

Room crosscuts, when driven narrow, $1.50 per yard.

A place will be considered deficient where the vein is less than 5 feet, or where there are more than 18 inches of rock or bone in the vein.

When it is necessary to dig up bottom to get the required height for cars in working places, the same shall be done by Company work or the miner shall be paid a reasonable compensation for doing this work.

4269 For the better protection of the health of the underground employes, it is recommended that all men working in the mine, except drivers and rope riders, should burn carbide.

In case a miner or loader is prevented from working by reason of water being in his place, it shall be taken up as provided for in Section 13 of the General Provisions.

All slants where such are used for haulage ways shall be paid the same price per yard as entries.

Coal delivered to employes, $2.50 per ton.

Brodie Mine.

Pick mining, per ton of 2000 lbs., run of mine, 85 cents.

Entries and entry crosscuts, dry, driven by hand, $3.25 per yard.

Entries and entry crosscuts, wet, driven by hand, $4.00 per yard.

Rooms crosscuts, when driven narrow, $1.50 per yard.
Room turning, $8.00.

Bear Creek.

Bear Creek Coal Company's Mine Scale of Mining Rates and Local Provisions.

Pick Mining.

No. 1 vein, per ton of 2000 lbs., 83 cents.

No. 2 vein, per ton of 2000 lbs., 78 cents.

No. 3 vein, per ton of 2000 lbs., 73 cents.

No. 4 vein, per ton of 2000 lbs., 88 cents.

No. 5 vein, per ton of 2000 lbs., 88 cents.

Crosscuts (rooms and entries), $1.60 per yard.

Room turning, $8.00 each, room necks to be 12 feet in length.

Machine Work No. 3 Vein.

Section 1. Machine cutting, 12 feet or less, 4-½
4270 cents per sq. ft.

Machine cutting, over 12 feet wide, 2-¾ cents per sq. ft.

Loading, drilling and shooting, under 12 feet, 53 cents per ton.

Loading, drilling and shooting, over 12 ft. 47-½ cents per ton.

Loading machine slack, 50 cents per car.

Sec. 2. Ten men shall follow a single shift machine and if ten men are not enough to keep the machine in cutting, this number may be increased by two men at a time, provided, the men are given a fair turn. If ten men are too many the force shall be reduced in like manner.

Sec. 3. Two men shall have two working places and where two men have only two entries, and are not turning rooms off same, they shall be allowed other places to load if their entries do not supply them enough coal to load the average turn. Loaders will return to their entries within a reasonable time after same is shot down.

Sec. 4. Room crosscuts shall be three cuts wide, except the last run, which may be two cuts wide. Where the loader has to throw coal more than twenty-five feet the Company shall place turn rails in such places.

Sec. 5. Short rails to be furnished each working place.

Sec. 6. Machine runners to replace all timbers and track, where they remove same, provided they shall not be required to move more than three timbers in any one place on any one cutting, and take up bottom coal if they leave any, provided, places cut are normal. It is understood that abnormal places are where rock, bone or sulphur appears in the bottom.

Sec. 7. In turning rooms where it is impossible for
4271 the machine men to cut on the bottom, in making the first run, the Company shall take up bottom coal.

Sec. 8. In case of break down of machines working single shift it is understood that machine men will be allowed to make up the time lost with their machines, either on idle days or night shift.

Sec. 9. Where rooms are driven narrower than normal width, if the loaders are unable to get a fair turn, each two loaders shall be given an extra place.

Brushing.

Six inches to 12 inches, per lineal yard, 75 cents.

Twelve inches to 18 inches, per lineal yard $1.25.

All brushing in excess of 18 inches to be taken up locally.

This does not include No. 4 vein.

All slants, where such are used for haulage ways shall be paid the same price as entries.

All rooms under 18 feet to be worked single.

Price for cross bars, in rooms and entries, where necessary, to be settled locally.

Coal to be sold at mines to employes only, at $1.75 per ton.

Ground rent, 66-2/3 cents per month.

Bear Creek.

International Coal Company's Mine.

Scale of Mining Rates and Local Provisions.

Pick Mining.

No. 1 vein, per ton of 2000 lbs. 83 cents.

No. 2 vein, per ton of 2000 lbs. 78 cents.

No. 3 vein, per ton of 2000 lbs. 73 cents.

No. 4 cein, per ton of 2000 lbs. 88 cents.

4272 No. 5 vein, per ton of 2000 lbs. 88 cents.

Entries $3.25 per yard.

Crosscuts (rooms and entries), $1.60 per yard.

Room turning, $8.00 each, room necks to be 12 feet in length.

Machine Work Vein No. 3.

Section 1. Machine cutting, 12 feet or less, 4-½ cents per sq. ft.

Machine cutting, over 12 feet wide, 2-¾ cents per sq. ft.

Loading, drilling and shooting under 12 feet, 53 cents per ton.

Loading, drilling and shooting, over 12 feet, 47-½ cents per ton.

Loading machine slack, 50 cents per car.

Sec. 2. Ten men shall follow a single shift machine and if ten men are not enough to keep the machine in cutting, this number may be increased by two men at a time, provided, the men be given a fair turn. If ten men are too many the force shall be reduced in like manner.

Sec. 3. Two men shall have two working places and where two men have only two entries and are not turning rooms off same, they shall be allowed other places to load if their entries do not supply them enough coal to load the average turn. Loaders will return to their entries within a reasonable time after same is shot down.

Sec. 4. Room crosscuts shall be three cuts wide, except the last run, which may be two cuts wide. Where the loader has to throw coal more than twenty-five feet the Company shall place turn rails in such places.

4273 Sec. 5. Short rails to be furnished each working place.

Sec. 6. Machine runners to replace all timbers and track where they remove same, provided, they shall not be required to move more than three timbers in any one place, on any one cutting, and take up bottom coal if they leave any, provided, places cut are normal. It is understood that abnormal places are where rock, bone or sulphur appear in the bottom.

Sec. 7. In turning rooms where it is impossible for the machine men to cut on the bottom in making the first run, the Company shall take up the bottom coal.

Sec. 8. In case of breakdown of machines working single shift it is understood that machine men will be allowed to make up the time lost with their machines either on idle days or on night shift.

Sec. 9. Where rooms are driven narrower than normal width, if the loaders are unable to get a fair turn, each two loaders shall be given an extra place.

Brushing.

Six inches to 12 inches, per lineal yard, 75 cents.

Twelve inches to 18 inches, per lineal yard, $1.25.

All brushing in excess of 18 inches to be taken up locally.

This does not include No. 4 vein.

All slants where such are used for haulage ways shall be paid the same per yard as entries.

All rooms under 18 feet to be worked, single.

Price for cross bars in rooms and entries where necessary, to be settled locally.

Coal to be sold at mines to employes only, at $1.75 per ton. Ground rent, 66-2/3 cents per month.

4274 Bear Creek.

Smokeless and Sootless Coal Company's Mine.

Scale of Mining Rate and Local Provisions.

Pick Mining.

No. 1 vein, per ton of 2000 lbs., 83 cents.

No. 2 vein, per ton of 2000 lbs., 78 cents.

No. 3 vein, per ton of 2000 lbs., 73 cents.

Entries $3.25 per yard.

Crosscuts (rooms and entries), $1.60 per yard.

Room turning, $8.00 each, room necks to be 12 feet in length.

Machine Work No. 3 Vein.

Section 1. Machine cutting, 12 feet or less, 4-¼ cents per sq. ft.

Machine cutting over 12 feet wide, 2/34 cents per sq. ft.

Loading, drilling and shooting, under 12 feet, 53 cents per ton.

Loading, drilling, and shooting, over 12 feet, 47-½ cents per ton.

Loading machine slack, 50 cents per car.

Sec. 2. Ten men shall follow a single shift machine, and if ten men are not enough to keep the machine in cutting, this number may be increased by two men at a time, provided, the men are given a fair turn. If ten men are too many, the force shall be reduced in like manner.

Sec. 3. Two men shall have two working places, and where two men have only two entries, and are not turning rooms off same, they shall be allowed other places to load if their entries do not supply them enough coal to load an average turn. Loaders will return to their entries within a reasonable time after the shot is down.

4275 Sec. 4. Room crosscuts shall be three cuts wide except the last run, which may be two cuts wide. Where the loader has to throw coal more than 25 feet the Company shall place turn rails in such places.

Sec. 5. Short rails to be furnished each working place.

Sec. 6. Machine runners to replace all timbers and track where they remove same, provided they shall not be required to move more than three timbers in anyone place at any one cutting, and take up bottom coal if they leave any, provided, places cut are normal. It is understood that abnormal places are where rock, bone or sulphur appears in the bottom.

Sec. 7. In turning rooms, where it is impossible for machine men to cut on the bottom in making the first run, the Company shall take up bottom coal.

Sec. 8. In case of breakdown of machines working single shift it is understood that machine men will be allowed to make up the time lost with their machines either on idle days or on night shift.

Sec. 9. Where rooms are driven narrower than normal width, if the loaders are unable to get a fair turn, each two loaders shall be given an extra place.

Brushing.

6 inches to 12 inches per lineal yard, 75 cents.

12 inches to 18 inches, per lineal yard, $1.25.

All brushing in excess of 18 inches to be taken up locally.

All slants where such are used for haulage ways, shall be paid the same price per yard as entries.

All rooms under 18 feet to be worked single.

Price for cross bars in rooms and entries where necessary, to be settled locally.

4276 Coal to be sold at mines to employes only, at $1.75 per ton.

Ground rent, 66-2/3 cents per month.

Bear Creek.

Montana Coal & Iron Company's Mines.

Scale of Mining Rates and Local

Provisions.

Pick Mining.

No. 1 vein per ton of 2000 lbs., 83 cents.

No. 2 vein per ton of 2000 lbs., 78 cents.

No. 3 vein per ton of 2000 lbs., 73 cents.

Entries, $3.25 per yard.

Crosscuts, (rooms and entries)$1.60 per yard.

Room turning $8.00 each, room necks to be 15 feet in length.

Machine Work No. 2 Vein.

Section 1. Machine cutting 12 feet or less, 4-½ cents per square foot.

Machine cutting over 12 feet wide, 3 cents per square foot.

Loading, drilling and shooting under 12 feet, 57 cents per ton.

Loading, drilling and shooting over 12 feet, 51-¾ cents per ton.

Loading machine slack, 50 cents per car.

Sec. 2. Ten men shall follow a single shift machine and if ten men are not enough to keep the machine in cutting, this number may be increased by two men at a time, provided, the men are given a fair turn. If ten men are too many, the force shall be reduced in like manner.

Sec. 3. Two men shall have two working places and where two men have only two entries and are not turning rooms off same, they shall be allowed other places to load if their
4277 entries do not supply them enough coal to load the average turn. Loaders will return to their entries within a reasonable time after same are shot down.

Sec. 4. Room crosscuts shall be three cuts wide except the last run which may be two cuts wide. Where the loader has to throw coal more than 25 feet, the Company shall place turn rails in such places.

Sec. 5. Short rails to be furnished each working place.

Sec. 6. Machine runners to replace all timbers and tracks where they remove same, provided, they shall not be required to move more than three timbers in any one place on any one cutting, and take up bottom coal if they leave any, provided places cut are normal. It is understood that abnormal places are where rock, bone or sulphur appears in the bottom.

Sec. 7. In turning rooms, where it is impossible for machine men to cur on the bottom, in making the first run, the Company shall take up bottom coal.

Sec. 8. In case of breakdown of machines working single shift it is understood that machine men will be allowed to make up the time lost with their machines either on idle days or night shift.

Sec. 9. Where rooms are driven narrower than normal width, if the loaders are unable to get a fair turn each two loaders shall be given an extra place.

Brushing.

6 to 12 inches per lineal yard, 75 cents .

12 inches to 18 inches, per lineal yard, $1.25.

All brushing in excess of 18 inches to be taken up locally.

All slants where such are used for haulage ways shall be paid the same price per yard as entries.

4278 All rooms under 18 feet to be worked single.

Prices for cross bars in rooms and entries, where necessary to be settled locally.

Coal to be sold to employes only at $1.75 per ton.

Ground rent, 66-2/3 cents per month.

Washoe.

Scale of Mining Rates and Local Provisions.

Pick Mining.

No. 1 vein, per ton of 2000 lbs., 83 cents.

No. 2 vein, per ton of 2000 lbs., 78 cents.

Entries $3.25 per yard.

Cross cuts (rooms and entries), $1.60 per yard.

Room turning $8.00 each, (room necks to be 18 feet in length.)

Brushing.

6 inches to 12 inches, per lineal yard 75 cents.

12 inches to 18 inches, per lineal yard, $1.25.

All brushing in excess of 18 inches to be taken up locally.

All rooms under 18 feet to be worked single.

Price for crossbars in rooms and entries, where necessary, to be settled locally.

All slants where such are used for haulage ways shall be paid the same price per yard as entries.

Coal to be sold at mines to employes only at $1.75 per ton.

Ground rent 50 cents per month.

Roundup.

Republic Coal Company's Mine.

Scale of Mining Rates and Local Provisions.

Pick mining, 73 cents per ton of 2000 lbs. run of mine.

Entry and entry crosscuts, $3.25 per yard.
4279 Room crosscuts, $1.60 per yard.

Room turning, $8.00, room necks to be 18 feet in length.

Where vein is less than 5 feet thick, it shall be taken up as provided for in Section 14, General Provisions.

All slants, where such are used for haulage ways, shall be paid the same price per yard as entries.

Forked coal delivered in camps to employes only, at $2.75 per ton.

Head bottom cager, $3.75 per day.

Roundup.

Roundup Coal Mining Company's Mine.

Scale of Mining Rates and Local Provisions.

Pick Mining.

73 cents per ton of 2000 lbs. run of mine.

Entry and entry crosscuts, $3.25 per yard.

Room crosscuts, $1.60 per yard.

Room turning, $8.00 room necks to be 16 feet in length.

Machine Works.

Sec. 1. Machine cutting for 12 feet or less, 3-¾ cents per sq. ft.

Machine cutting over 12 feet 1-¾ cents per sq. ft.

For loading, shooting and drilling, for 12 feet or less, 60 cents per ton.

Loading, shooting, and drilling over 12 feet 56-½ cents per ton.

Sec. 2. Twenty men shall follow a single shift machine and if twenty men are not enough to keep the machine in cutting, this number may be increased by two men at a time, provided, the men are given a fair turn. If twenty men are too many, the force shall be reduced in like manner.

4280 Sec. 3. Two men shall have two working places and where two men have only two entries, and are not turning rooms off same, they shall be allowed other places to load, if their entries do not supply them enough coal to lead them average turn. Loaders will return to their entries within a reasonable time after same is shot down.

Sec. 4. Room crosscuts shall be three cuts wide, except the last run, which may be two cuts wide. Where the loader has to throw coal more than 25 feet, the Company shall place turn rails in such places.

Sec. 5. Short rails to be furnished each working place.

Sec. 6. Machine runners to replace all timbers and track where they remove same, provided, they shall not be required to move more than three timbers at any one place on any one cutting, and take up bottom coal if they leave any, provided places cut are normal. It is understood that abnormal places are where rock, bone or sulphur appears in the bottom.

Sec. 7. In turning rooms, where it is impossible for machine men to cut on the bottom in making the first run, the Company shall take up bottom coal.

Sec. 8. In case of breakdown in machines working single shift, it is understood that machine men will be allowed to make up the time lost with their machines either on idle days or night shift.

Section 9. Where rooms are driven narrower than normal width, if the loaders are unable to get a fair turn, each two loaders shall be given an extra place.

Local Provisions.

Where vein is less than five feet thick it shall be taken up as provided for in Section 14, General Provisions. All
4281 slants where such are used for haulage ways shall be paid the same price per yard as entries.

Lump coal delivered in camp to employes only, $2.75 per ton.

To employes living south of railroad track, $3.00 per ton.

Roundup.

Davis Coal Company

Scale Of Mining Rates And Local Provisions.

Pick mining, run of mine, 2000 lbs., vein 4 ft. to 5 ft. 83 cents.

Pick mining, run of mine, 2000 lbs. over 5 feet, the same price to be paid as Nos. 2 and 3.

Entries and entry crosscuts $3.25 per yard.

Room crosscuts, $1.60 per yard.

Room turning, $8.00 room necks to be 16 feet long.

All slants driven and used for haulage ways shall be paid for at entry prices.

When the vein is 3 ft. 9 inches or under, it shall be considered deficient work and the price shall be agreed on between the management and the local Union.

Local Provisions.

Coal furnished to employes in camp only $2.25 per ton, mine run.

Company will sink ties for laying track until such time as the height of the vein is such that it is not necessary. The Company will move wheel post.

Roundup.

Pine Creek Coal Company.

Scale Of Mining Rates And Local Provisions.

Pick mining, run of mine, 2000 lbs. 3 feet clean coal, and under 4 ft. 95 cents.

4282 Pick mining, run mine, 2000 lbs. 4 ft. thick and under 5 ft. 83 cents.

Pick mining, run of mine, 2000 lbs. 5 ft. and over, 73 cents.

Entry and entry crosscuts, $3.25 per yard.

Room crosscuts, $1.60 per yard.

Room turning, $8.00.

Local Provisions.

All work shall be single in the low coal. After coal is over 5 feet in entries, the Company has a right to work en-

tries double. The same to apply to rooms. Where wood ties are used the Company shall dig all tie holes.

The Company agrees to furnish the miners with the brand of powder they desire, if possible, the same to be delivered to the working place. Where rock is in the seam, the price applies to the Bear Creek Mine for brushing, shall be the price paid for this work, under present conditions, the Company to furnish Giant powder in entries. Rooms to be 22 feet wide.

Hoffman.

Scale Of Mining Rates And Local Provisions.

Coal, $1.06 per car.

Room crosscuts, 50 cents per foot.

Room necks and first crosscuts, 75 cents per foot.

Entries shall be driven by day wages until some price can be agreed upon locally for same.

Lump coal delivered to employes only, $3.50 per ton. Mine run delivered to employees only, $2.25 per ton.

Chimney Rock

Scale Of Mining Rates And Local Provisions.

Coal, $1.18-½ cents per car.

4283 Entries 75 cents per foot.

Room crosscuts, 50 cents per foot.

Room turning, 50 cents per foot.

All slants where such are used for hauling ways shall be paid the same price per yard as entries.

Price of crossbars in rooms and entries where necessary, to be taken up locally.

Lump coal delivered to employes only, $3.50 per ton.

Mine run coal delivered to employes only, $2.25 per ton.

On behalf of the Montana Coal Operators Association,

F. W. C. WHYTE,
President.

M. F. PURCELL,
Secretary and Commissioner.

On behalf of the United Mine Workers of America.

HENRY DRENNAN,
President District No. 27.
THOMAS MURRAY,
Secretary District No. 27.

On behalf of Scale Committee.

HENRY DRENNAN,
ROBT. CONDON,
THOMAS MURRAY,
ADAM WILKINSON,
CLARENCE R. CLAGHORN,
JAS. NEEDHAM,
JAS. PEARSON,
F. W. C. WHYTE."

4284 Exhibit "B".

"Agreement Between
Montana Coal Operators' Association
and
United Mine Workers Of America,
District No. 27, Montana,
Year Commencing October 1, 1914,
Ending September 30, 1916.

For Mines In Montana.

General Provisions.

Hours Of Labor.

Section 1 (a). It is definitely understood that this agreement is based on an eight-hour day. An eight-hour day means eight hours' work at the usual working place, exclusive of one-half hour for mid-shift lunch, six days a week, when required by the operator, Sundays and legal holidays excepted.

(b). However, this does not prohibit engineers, rope riders and motormen from working the time necessary to hoist and lower men and material, nor does it apply to those men whose employment requires them to work seven days in the week or the making of necessary repairs. All such hours work over eight hours shall be paid for at the scale rate of an eight hour basis.

(c). In case of emergency, which means any unlooked for event that would tend to impede the operation of the mines

the following shift, the operators shall have the right to work the men necessary to put the mine in proper condition.

(d). Drivers and motormen shall work full eight hours in their respective places. Drivers shall take their mules to and from the stables and the time for so doing shall not be included as part of the day's labor, provided that not
4285 more than fifteen minutes is required in going to or returning from his working place and stable.

The Right To Hire And Discharge.

Section 2. The right to hire and discharge, the management of the mine and the direction of the working forces are vested exclusively in the operator, and the U. M. W. of A. shall not abridge this right. It is not the intention of this provision to encourage the discharge of employees or the refusal of employment of applicants because of personal prejudice, or activity in matters affecting the company or the U. M. W. of A.

Preference In Employment.

Section 3 (a). When hiring new men the operator or his representative shall give preference to card bearing members of the U. M. W of A. when such transfer cards are produced. This section shall not prevent the hiring of other men when there are no union men applying for work, nor shall it be construed to compel the employment of inefficient men.

(b). In case an employee is thrown out of employment he shall be given preference in same or other mines in the same camp operated by the same ompany. When a part of a mine is closed down, the old employees among the contract miners, and also among the different classes of day men, shall be given preference in the remaining work. Employees shall report for work within three days after the mine resume operation. Employes who accept or procure employment at other mines forfeit their rights for re-employment.

Check-Off.

Section 4. The operators agree to check off all union dues, assessments, initiation fees and such fines as are provided for in this agreement, or as may be agreed upon by the
4286 District President and the Coal Operators' Commissioner or their authorized representatives from all miners and mine laborers in and around the mine when requested by the local of the U. M. W. of A.

In order to protect the operators the U. M. W. of A. agrees to furnish individual orders authorizing the company to make such deductions.

It is understood that after fuel charges and the pit expenses for powder, smithing and a proper proportion of mine tools are deducted, the operator will give preference to the regular dues and also not to exceed $5.00 in any one pay for assessments, fines and initiations.

The operator will furnish to the miners' local representative a monthly statement showing separately the amount of dues, assessments, fines and initiation fees collected, and also showing those from whom dues and assessments have not been collected.

In case any fine is imposed, the propriety of which is questioned, the amount of such fine shall be held by the operator until case has been taken up for adjustment and a decision reached.

Adjustment Of Disputes.

Section 5 (a). In case of any local trouble arising in the mine through failure to agree between the pit boss or foreman having proper jurisdiction and any miner or mine laborer, the pit committee and the pit boss or foreman are empowered to adjust it, and in case of their disagreeing it shall be investigated by the local Executive Board, and if they find merit in the case they shall take it up with the Superintendent of the company or his representative, and if they fail to agree it shall be referred to the Manager of the company or
4287 the Commissioner of the Montana Coal Operators' Association and the District President of the U. M. W. of A. or his representative for adjustment. But no such case shall be taken up for investigation or adjustment unless the parties involved continue at work until a final decision is reached.

(b). If any day man refuses to continue at work because of a grievance which has or has not been taken up for adjustment in the manner provided herein, and such action shall seem likely to impede the operation of the mine, the Pit Boss or Foreman, with the approval of the Pit Committee, shall immediately select a man or men to take such vacant place or places at the scale rate, in order that the mine may continue at work, and it shall be the duty of any member or members of the United Mine Workers who may be called upon by the Pit Boss or Foreman, with the approval of the Pit

Committee to immediately take such place or places assigned to him or them, in pursuance hereof.

(c.) If any employee be discharged or suspended by the company, and it is claimed that an injustice has been done, the case shall be investigated and taken up promptly as provided for in paragraph (a) of this section. If it is proven that an injustice has been done, the operator shall reinstate such employee and pay him full compensation for the time he has lost while so discharged or suspended; provided, however, that if no decision shall be rendered within five days the case shall be considered closed so far as compensation is concerned. If such failure to arrive at a decision within five days is owing to a delay on the part of the operator, the compensation paid shall not exceed ten days, or if the matter has to be referred to the Joint Executive Board compensation paid shall not exceed fifteen days; but if the failure to
4288 arrive at a decision within the original five days is owing to delay on the part of the miners, and the case has to be referred to the Joint Executive Board, then the compensation paid shall not exceed ten days.

It is agreed that the Local Executive Board of the U. M. W. of A. shall investigate the merits of all grievances before submitting them to the Superintendent.

(d). When trouble of a local character arises between the members of the Local Union and their local employers and they are unable to adjust it satisfactorily as provided in paragraph (a) of this section, it shall be referred to three members of the Executive Committee of the Montana Coal Operators' Association and the three District Executive Officers of the U. M. W. of A. for decision. In the event of their failure to settle the matter satisfactorily, a joint statement of facts shall be prepared by the Joint Executive Board and the entire matter be submitted to a party or parties to be agreed upon by said Board for settlement.

Provided, however, that discharge or suspension cases shall not go further than the Joint Executive Board unless mutually agreed to by said Board.

When a meeting of the Joint Executive Board is demanded by either side, said Board shall be convened within five day from the time application for the meeting is made, and at such time and place as may be mutually agreed upon by the Commissioner of the Montana Coal Operators' Association and the President of District No. 27, U. M. W. of A.

In any event, the Local Union shall remain at work until the International President or the International Executive Board and the District Executive Officers have authorized a strike.

4289 Pit Committee.

Section 6 (a). The Operators shall recognize the Pit Committee in the discharge of their duties as provided in this agreement. The duties of the Pit Committee shall be confined to the adjustment of disputes between the Pit Boss or Foreman having proper jurisdiction and any member of the U. M. W. of A. working in or around the mines, arising out of this agreement, the Pit Boss or Foreman and said miner or mine laborers having failed to agree.

(b). The Pit Committee in the discharge of its duties shall under no circumstances, go around the mine for any cause whatever, unless called upon by the Pit Boss or by a miner or company man who may have a grievance that he has first tried to and cannot settle with the boss. Any Pit Committeeman who shall attempt to execute any local rule or proceeding in conflict with any provision of this contract, or any other made in pursuance thereof, shall be forthwith deposed as Committeeman and shall thereafter be ineligible to act as Committeeman during the life of this contract.

(c). Members of the Pit Committee employed as day men shall not leave their places of duty during working hours, except by permission of the operator, or in cases involving a stoppage of the mine.

Engineers.

Section 7 (a). In case of either local or general suspension of work, either at the expiration of this contract or otherwise, the engineers, firemen, pumpmen and others required by the company for protection of property shall not suspend work, but shall, when mining is suspended, fully protect the company's property under their care, and shall operate fans and pumps and lower and hoist such men
4290 and supplies as may be required to keep up steam at the company's coal plant; provided, that no such employe is discharged on suspended in order to make room for a non-union employe. It is understood and agreed that the operator will not ask them to hoist any coal produced other than that required for the operation of the plant.

(b). No engineer shall be subject to the authority or provision of the Pit Committee, but in case of any disagree-

ment which he cannot settle with the Foreman and Local Executive Board, the subject shall be taken up by the District President or his representative and the Coal Operators' Commissioner for adjustment. All engineers shall do their own firing or any other work connected with the machinery assigned them by the operator in places where it is practicable and their duties as engineers do not prohibit their so doing. This clause shall not be construed to mean that an engineer can be used on idle days to the exclusion of a regular fireman or other employee.

(c). In case of a suspension of work pending a settlement, all engineers, firemen, pumpmen and other employes engaged in protecting property shall be paid the scale finally agreed upon.

Check Weighman.

Section 8. Miners may elect a check weighman who must be an employee of their mine at the time of and for at least three months previous to his election, and the Company shall furnish him with a check number and he shall credit to his number such portion of each miner's or loader's coal as may be necessary to pay his wages. In mines where the men are unable to support a regular check weighman they shall have the right to elect a miner or loader employed at that mine to act as temporary check weighman when necessary, and the Company shall give any man so elected
4291 his work back at the end of his labors as check weighman.

Canstruction Work And Repairs.

Section 9. The erection of head frames, buildings, scales machinery, railroad switches, etc., necessary for the completion of a plant for loading coal, all being in the nature of construction work, are to be excluded from the jurisdiction of the U. M. W. of A. Repairs to or rebuilding of same class of work shall be included in the same exception, employees thereon to be excluded as above when employed on such work.

Employes Not Under Jurisdiction of U. M. W. of A.

Section 10. No scale of wages shall be made by the U. M. W. of A. for Mine Boss, Assistant Mine Boss, Top Foreman, Company Weigh Boss, Boss Driver, Night Boss, Head Carpenter, Watchman, Master Mechanic, and Head Electrician. The words "Head Electrician" and "Head Carpenter" shall apply in cases where he has supervision over two or more men performing the same class of labor.

Pay Day.

Section 11. Employees shall receive their pay in semi-monthly periods. In no instance shall pay day be later than sixteen days after the period closes in which pay was earned. In camps where Saturday pay day is mutually desired the question may be taken up for adjustment by the local union and the management of said mine or mines.

The matter of paying in currency may be taken up locally by the Local Union and the Mine Management, to the end that a satisfactory arrangement may be effected. At acmps where payment is made in currency it is understood that employees shall call for their pay on pay day, other-
4292 wise accept checks. The Company will issue itemized statements two days prior to pay day.

Price of Powder.

Section 12. Black powder is to be sold to the miners at $2.40 per keg, giant powder 20c per pound XXX caps 75c per hundred, XXXX caps 80c per hundred, XXXXX caps $1.00 per hundred, double tape fuse 75c per hundred feet.

All black powder sold to employees by the Company or its authorized agent will be delivered to a suitable storage receptacle at the inside parting nearest to the working place, the Company's responsibility to cease when this is done. The Mine Foreman and Pit Committee may agree on a suitable person to take charge of the key to each receptacle.

Where there is no parting on the entry the powder receptacle will be placed within one thousand feet of the outside working room or the miner shall have his powder delivered to his working place.

Right of Purchase.

Section 13. The employees shall have a right to buy where they please, without discrimination, but all powder, caps and fuse used in the mine must be of some standard brand and the grade thereof must conform to that customarily used in the mine and be satisfactory to the operator. This provision will not be used to prevent the testing of another grade when mutually agreed to.

Holidays.

Section 14. New Year's day, April 1st, Fourth of July, Labor Day, Thanksgiving day, and Christmas day shall be observed as holidays.

Delivery of Cars.

Section 15. Miners or loaders shall not be required to
4293 push their cars more than one hundred feet, and in cases where the roadway is so steep that the man or men working in the room cannot push the cars they shall be delivered at the face by the driver. This rule does not affect rooms where the cars are operated by McGintys.

Supply of Cars.

Section 16 (a). The Operator shall see that an equal turn is offered each miner, and shall so regulate the number of miners and loaders in the mine that each one shall be offered a fair turn under normal conditions. When any difference arises locally as to what constitutes a fair turn, the District President and the Operators Commissoner shall go to the locality and determine what shall constitute a fair turn in accordance with this section.

(b). The check weighman shall keep a turn bulletin for the turn keeper's guidance. The drivers shall be subject to whoever the Mine Manager shall designate as turn keeper in pursuance hereof. The turn keeper and the check weighman shall jointly examine the turn bulletins and satisfy themselves as to their correctness, and the turn keeper shall be governed accordingly.

(c). Any miner shall be considered as having loaded the highest turn offered in the run in which he works each day, whether he is present at work or not. In the event he is hindered from loading the same through some unavoidable circumstance, it shall be the duty of the driver in charge of that run to make up such cars, provided the miner is able to load same, unless he has been otherwise provided for by contract or day's work.

(d). Should any run become more than two days' turn
either ahead or behind the average turn of the mine
4294 during six consecutive weeks, the management shall so regulate the driving that such runs shall be either made up or held back, as the case may demand, and should the management fail within ten working days to remedy such conditions, then the men in the run having the highest rurns shall be suspended from loading coal until the same is remedied. This does not apply in mines having an unlimited turn.

(e). In no way shall the miners or mine workers restrict the number of cars loaded by the miner.

(f). In mines where there is both hand and machine mining an equal turn shall mean approximately the same turn to each man in the machine part of the mine and approximately the same turn to each man doing hand work, but not necessarily the same to each hand miner as to each man working with the machine.

Manner of Loading Cars.

Section 17. Miners and loaders shall load pit cars in a careful manner. The Mine Foreman and Pit Committee may agree upon a maximum height to which cars may be loaded.

Wrecked Cars.

Section 18. All loaded cars of coal which have been dumped by getting off the track or otherwise wrecked shall be paid for at the average weight of said miner's cars weighed that day. All wrecked cars shall be marked by drivers, rope riders, motormen, and those handling cars by placing some suitable mark thereon indicating that they have been wrecked, as directed by the Company.

Employees Working Both Inside and Outside.

Section 19. Employees whose duty is both inside and outside of the mine shall be classed as inside employees.

4295 Miners on Other Work and Day Men

Section 20. An employee taken from the face to do other work shall be paid miners schedule pay while so employed, and in no instance shall he be paid less than the maximum wages for the class of work at which he is employed. All other employees to give proper care to the duties to which the foreman may assign them.

Working Idle Days.

Section 21. No miner or loader shall be allowed to work in rooms on idle days making or loading coal. In cases where the mines are working three days or less a week and it is necessary to push development work full time, the development work shall be divided among the miners working in said mine, but it is understood the same rate of advancement of entry shall be maintained by the new men, and the company shall not be called upon to settle any disagreement between the men. On idle days the day work shall be divided, as far as possible, between the day men engaged in similar work.

Regulating Night Shift.

Section 22. Where men are employed night shift continuously they shall be given preference over new men on day shift, provided they are competent to do the work.

Tool Sharpening.

Section 23. Where the company does the sharpening the price of blacksmithing shall be 1 per cent of the gross earnings, the miners' tools to be given preference over all other work done by the blacksmiths, and tools shall be sharpened in a workmanlike manner. Present practice as to repairs to continue.

Deficient Places.

Section 24. All deficient places may be driven at a
4296 price to be decided upon between the Pit Boss and the miners working in such places, provided an agreement can be reached that is satisfactory to both parties. Where the deficient condition appears to be more or less continuous, said agreement to be in writing and copy sent to the District President and the Commissioner of the Montana Coal Operators' Association.

In the event of no agreement being reached the miners shall be provided with other places in the mine if available, and the company shall then have the privilege of further driving the deficient places either by special contract with other miners or by day's work, as it sees fit. It is agreed that no miner shall be discharged on account of failure to agree upon a price for deficient work.

Removal of Water and Furnishing of Supplies.

Section 25. The company shall keep the mine in as dry a condition as practicable by keeping the water off the road and out of the working place. When a miner or loader is unable to work at his usual working place on account of the company's negligence in failing to remove water from the working place or supply him with material that they have agreed to furnish him, they shall employ said miner or loader doing company work where practicable, or he shall be given another working place, equal to the average place of the mine, if such place is avaialable, until such water is removed or material supplied him.

Responsibility for Careless Timbering or Shooting.

Section 26 (a). It shall be the duty of all miners and loaders to care for their working place in a proper manner.

(b). In case of a fall in a miner's or loader's place for
4297 which he is not responsible or which is due to the company's negligence in failing to supply material to properly timber or care for said place, the Pit Boss shall have such fall removed or have men working to remove such fall within a reasonable time after receiving such notification. It is understood that every effort should be made by the Foreman and miners affected to come to an agreement and that preference be given the miners to do the work, provided an agreement can be reached to the end and that the place affected be cleaned up as soon as practicable.

(c). If any miner or loader shall fail to properly timber, shoot and care for his working place and such failure has entailed falls of rock, slate and the like, the miner or loader whose fault has occasioned such damage shall repair the same without compensation, and if such miner or loader fails to repair the damage he may be discharged.

(d). It is further agreed that where cars or other equipment are damaged through carlessness either in blasting or otherwise, the miner or loader shall pay for such damage.

Crossbars.

Section 27. In rooms where the Mine Foreman directs the miner or loader to place crossbars to permanently secure the roadway, then, and in such cases only, the miner shall be paid for each crossbar when properly set. The foregoing does not contemplate any change from the ordinary method of timbering by the miner for his own safety.

Laying Track.

Section 28. The company shall lay all permanent tracks in entries, and miners and loaders shall lay entry and room rails as at present. The miners and loaders shall maintain and repair the track one hundred feet from the face; pro-
4298 vided, however, that when a miner or loader is assigned a working place operated there before by another miner, then the company shall place track in the same in first class shape. This clauses does not apply to mines where the company is laying and maintain tracks at present for contract miners and loaders.

Tools and Materials.

Section 29. The company shall furnish all necessary supplies, such as rails, ties, timbers and other materials at each working place as required. They shall also furnish all necessary tools to company men; provided, however, that they exercise the necessary caution in caring for the same. Any employee losing or destroying company tools through carelessness or negligence or deliberately causing the loss of material belonging to the company shall replace the same at his own expense; This does not mean that the company shall furnish tools to carpenters, machinists or others who generally furnish part or all of their own tools.

Man Trips and Tool Cars.

Section 30. The running of man trips and the manner and time of so doing will be arranged by each local Superintendent and Local Union. The question of tool cars may be taken up locally at new mines or at mines where arrangements for same have not been agreed upon.

Slants and Long Crosscuts.

Section 31. All slants, where such are used for haulage ways, shall be paid the same price per yard as entries. Where miners or loaders are required to drive more than thirty feet of crosscut from one side they shall be paid entry price per yard for all distance in excess of thirty feet.

Shooting Time.

4299 Section 32. In mines where it is customary to shoot only once a day there shall be no shooting sooner than fifteen minutes before quitting time except by special permission.

Penalties for Stoppage of Work.

Section 33 (a). If any employee or employees shall cause stoppage of work in violation of this agreement he or they shall be subject to discharge by the company without recourse.

(b). Should any officer of the U. M. W. of A. or any Local Union or its members employed at any mine, cause the mine or part of the mine to shut down in violation of this agreement, each member of the U. M. W. of A. employed at such mine, except those who continue at work, shall be fined one dollar for each day or part of a day that the mine is thus thrown idle.

(c). Should any operator, or his representative, cause a mine or part of a mine to shut down in violation of this agreement, he shall be fined one dollar per man affected for each day or part of a day that the mine is thus thrown idle.

(d). Should any operator, or his representative, refuse to put into effect any written decision that may be agreed to under the provisions of this contract by the representatives of the U. M. W. of A. and the representatives of the Montana Coal Operators' Association, or any decision that may be handed down by any party or parties who may be hereafter empowered by the two organizations to render such decision, said operator shall be fined the sum of fifty dollars for each offense.

(e) All fines collected as provided in paragraphs (b), (c), and (d) of this section shall be paid one-half to the Secretary-Treasurer of District No. 27, U. M. W. of A., and one-half to the Secretary of the Montana Coal Operators' Association and in no circumstances shall any fines so collected be re-
4300 funded, except when agreed to by the two organizations.

Penalty for Absence from Work.

Section 34. When an employee absents himself from his work for a period of two days or persists in working irregularly, unless through proven sickness, or by first having properly arranged with the Pit Boss or Foreman and obtained his consent, he may be discharged without recourse. Miners or other employees unable to work, unless on account of proven sickness, must notify the Pit Boss or Foreman at once. All employees whose absence would cause a stoppage of work must before absenting themselves from work properly arrange with the Pit Boss or Foreman for their absence, otherwise they may be discharged without recourse.

Employees receiving minor injuries shall arrange to notify the management at their earliest convenience, and employees absent on account of sockness shall notify the management within three days if possible to do so.

Penalty for Inducing Men to Quit Work.

Section 35. Drivers or other employees found guilty of inducing miners or laborers to leave the mine before the regular time for quitting will be subject to discharge. Where the mine only runs part of the day, the miners and loaders

shall be notified by the Foreman or drivers and no shooting shall be done for one hour after the mine has shut down.

Penalties for Loading Impurities.

Section 36. The Companies may designate a competent person to act as Coal Inspector, said Inspector shall be a member of the U. M. W. of A. In case rock, slate, bone, clay, sulphur or other impurities are loaded by miners or loaders, said Inspector shall estimate weight thereof and cause same to be deducted from the established weight of the car. For any aggravtated or malicious offense or where three offenses occur within thirty consecutive days the miner or loader so offending may be indefinitely suspended or discharged.

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Grade of Miner's Oil.

Section 37. The use of black or kerosene oil as an illuminant in the mine is prohibited. If any employee other than driver, rope rider or motorman burns oil mixed with kerosene he shall be subject to a fine of one dollar for the first offense, two dollars for the second offense, and may be discharged for the third offense. This money shall be collected through the Company office and all money so collected shall be equally divided between District No. 27 of the U. M. W. of A. and the Montana Coal Operators Association.

Doctor and Hospital.

Section 38 (a). The affairs of the doctor or doctors and hospital at each camp or group of camps shall be handled by a Commission consisting of four members, three of whom shall be elected by the Local Union and one to he named to represent the employees not members of the Union. The Companies agree to make such deductions per capita as are agreed on by the Commission and Local Union and turn same over to the hospital commission.

(b). Should any doctor or doctors be discharged by a majority vote of those paying into the fund, and the vote cast as arranged for by the hospital commission, it shall require a unanimous vote of the commission to select another doctor or doctors. All complaints against the doctors must be presented to the commission and investigated by them, the doctors being given an opportunity to defend themselves. No contract shall be made with any doctor which extends beyond the life of this agreement.

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(c) All contracts between hospital commissions and doctors entered into during the life of this agreement must con-

tain provisions that the doctor shall make monthly reports in duplicate to both the Company and the Local Union of all accidents occurring in and around the mine.

(d) In camps where the Union or miners now have control of the hospital arrangements or funds the arrangements shall remain as at present.

Deaths and Funerals.

Section 39 (a). In the event of an instantaneous death by accident of a miner or employee while in the discharge of his duty the miners or other employees in the entry or at the place where the accident occurred may individually or collectively discontinue work for the remainder of that day, but work at the option of the Operator shall be resumed on the day following and continue thereafter.

(b). When death has resulted from an accident in or around the mine, individual employees may absent themselves from work for the purpose of attending the funeral of the deceased, but not otherwise, Except in cases of accident as above, the mine in no case shall be thrown idle because of any death or funeral, but in the case of the death of an employee of that Company or member of his family, an individual employee at his option may absent himself from work for the purpose of attending such funeral, but not otherwise.

(c). When death has resulted from an accident in or around the mine each employee of the mine where the deceased employee was employed shall contribute one
4303 dollar and the operator shall contribute fifty dollars for the benefit of the family of the deceased or his heirs, said contribution to be deducted on the pay roll. The money so collected shall be turned over to the Local Secretary-Treasurer of and representing the U. M. W. of A., who shall sign a receipt for such money and all money so collected shall be used only for the purpose above specified.

Note: In the event of a compensation law becoming effective paragraph (c) shall be null and void.

Care of Injured.

Section 40. All companies shall keep sufficient blankets, oil, bandages, cots, etc. readily available at each mine to properly care for and convey injured persons in some suitable conveyance to their home or hospital after an accident. A room suitable for the temporary care of the injured shall

where it is necessary, be provided at each mine by the Company.

New Mines.

Section 41. When new mines are opened and developed during the life of this contract, or old mines desire to change the mining conditions, the question of mine rates and conditions shall be referred to the Commissioner of the Montana Coal Operators' Association and the District President of the U. M. W. of A. and approved by them before any such rates are established. In the event of their failure to agree the matter shall be decided by the Joint Executive Committee of the U. M. W. of A. and the Montana Coal Operators' Association.

Shaft Sinkers.

Section 42. The term "sinkers" in wage scale shall include all men working in vertical shafts whether shoveling, drilling, shooting, pumping, timbering or otherwise until the time that the doorheads are in, and the Local Union
4304 shall not interfere with any disposition that either the Company or its contractor may make of the men. Where oil clothes and rubber boots are necessary in shafts the same shall be supplied by the Company at its expense.

No Conditions to Conflict with the Agreement.

Section 43. No locals or company shall be allowed to make or enforce any conditions which conflict with the terms of this agreement or to change any existing conditions not changed or provided for in this agreement. In case of conditions arising locally requiring any modification of this agreement or a change in existing conditions such modifications or changes shall be mutually agreed upon by the District Executive Officers of the U. M. W. of A. and the Executive Committee of the Montana Coal Operators' Association.

Contract not to be Voided by Miners Constitution or Rules.

Section 44. This contract is in no case to be set aside because of any rules of the U. M. W. of A. now in force or which may hereafter be adopted, nor is this contract to be set aside by reason of any provision in their National, State or Local Constitutions. Neither shall the Montana Coal Operators violate said agreement.

Enforcement of Contract.

Section 45. This contract being mutually agreed to, it is definitely understood that it is equally binding upon the two organizations to see that its written provisions are adhered to. When any evasion of this contract by either the miners or operators is brought to the notice of the District President and the Operators' Commissioner it shall be
4305 their duty to see that its terms are complied with.

Continuation of Work.

Section 46. If no agreement is reached at the expiration of this contract the mines shall continue in operation pending negotiations or until negotiations are discontinued by either party to the agreement.

As long as the mines continue in operation after the expiration of this contract, until the new agreement is reached, the various conditions enumerated herein shall remain in effect, but the scale of wages and contract prices finally agreed upon shall be retroactive to the date of expiration of this contract.

Scale of Day Wages.

(Outside.)

	Per day.
Engineers, first class,	$4.00
Engineers, second class and box car loader engineers,	3.50
Water tender,	3.35
Fan fireman,	3.35
Blacksmiths,	4.00
Tool sharpeners,	3.75
Blacksmith helpers,	3.00
Carpenters,	3.90
Car repairers,	3.65
Car repairers' helpers,	3.00
Machinists, first class,	4.00
Machinists, second class,	3.50
Coal inspector,	3.15

	Drill boys, minimum	1.80
	Firemen,	3.35
	Head brakeman,	3.30
4306	Other brakeman,	3.00
	Electricians, first class, in and around the mine,	4.00
	Electricians, second class, in and around the mine,	3.50
	Rope cutters, when so specially engaged,	3.15
	Drivers,	3.15
	Head dumpers,	3.15
	Other tipple men,	3.00
		Per month.
	Barnmen in charge of more than fifteen head of stock,	95.00
	Barnmen in charge of less than fifteen head of stock,	80.00
	Assistant barnmen,	70.00
		Per day.
	Teamsters,	3.15
	Head Breakerman,	3.75
	Other breakermen,	3.00
	Boys on picking tables, minimum,	1.55
	Men on picking tables,	2.90
	Boys on breakers, minimum,	1.55
	Jig men,	3.25
	Other washermen,	3.00
	Greasers,	2.50
	Oiler and wiper,	3.15
	Timber framer,	3.15
	Box car shoveler,	3.15

Motormen,	3.60
Outside labor, not classified,	2.90

Scale of Day Wages.

4307 (Inside.)

	Per day.
Miners,	$3.80
Timbermen,	3.80
Timbermen's helpers,	3.40
Track layers,	3.80
Track layers' helpers,	3.40
Bratticemen,	3.75
Shooters or shot firers,	3.75
Machine runners,	3.90
Machine runners' helpers,	3.40
Drillers,	3.75
Drillers' helpers,	3.40
Machine repairer,	4.00
Head pipe man,	3.75
Pipe men,	3.40
McGinty repairer, rope splicer,	3.75
Drivers,	3.60
Team drivers,	3.75
Motormen	3.60
Inside engineer,	3.40
Parting men and connection men,	3.40
Rope riders,	3.40
Rope riders, main rope,	3.75
Jack man,	3.60
Greasers,	2.35
Flaggers,	2.25
Boy couplers on partings,	2.35

	Pulley repairers,	3.75
	Trappers,	1.70
	Pick carriers,	2.25
	Barnmen,	3.50
4308	Pumpmen,	3.75
	Shaft sinkers,	4.00
	Inside labor not classified,	3.40

Red Lodge.

Scale of Mining Rates and Local Provisions.

Mining Rates.

Veins 4 and 5, per ton of 2,000 pounds, mine run, 65 cents.

Vein No. 2, per ton of 2,000 pounds, mine run, 69 cents.

Veins Nos. 1 1-½ and 6, per ton of 2,000 pounds, mine run, 77 cents.

Crosscuts, in entries and rooms $1.60 per yard. Entries dricen by hand, $3.25 per yard. In 1-½ vein an additional 25 cents per yard will be paid where rock is to be lifted in foot wall.

Room turning, $10.00 per room.

Room necks to be 20 feet in length.

Local Provisions.

Lump coal to be delivered to miners at $2.25 per ton.

Mine-run coal delivered to miners at $2.00 per ton.

Washed coal Nos. 1 and 2, delivered to miners at $1.75 per ton.

There shall be a board at the foot of all entries for the convenience to miners to note material needed at working places.

Where veins Nos. 5 and 6 are worked together as at present, and the intervening parting is less than six inches thick, fifty cents per lineal yard of 24 foot room driven, will be paid in addition to the No. 5 mining rate; entry yardage will be paid at the rate of $3.40 per lineal yard; crosscuts will be paid at the rate of $1.70 per lineal yard and room turning will be

paid $11.00. Where the intervening rock becomes 6
4309 inches or more in thickness, the local officers and the company officials will fix a rate of compensation, or rock shall be lifted at day rate.

Wheel posts shall be paid for as follows: 25 cents for each post set on side and 50 cents for each post set in front of track where they have to be moved. Posts to be set in substantial and workmanlike manner. The Company shall keep track in condition so that cars will run.

In sections of the mine where tracks are carried on ribs, miners shall be given the option of working in such places or be given a place in other parts of the mine where tracks are in the center of the room.

Timbers and caps shall be delivered at a point on the entry within twenty-five feet of each room neck. Timbers to be squared on one end. Present system as to cap pieces to continue.

In all pillar work where track is moved or replaced, it shall be classed as shift work. It is agreed that the miners will lift the last pair of rails and move them back even with the next pair after which their responsibility ceases.

In vein No. 4 cross bars will be paid for as follows:

Eight to 10 inches at small end, $2.50.

Less than 8 inches, small end, $1.50.

In veins Nos. 1, 1-½ and 2 cross bars will be paid for as follows:

Eight to 10 inches, at small end, $2.00.

Less than 8 inches, at small end $1.25.

When cross bars are ten inches or over at the small end same shall be paid for at the day rate or by special contract.

In veins Nos. 1-½ and 2 the following prices will be
4310 paid for draw slate or cap rock when same is over 8 inches thick.

From 8 to 12 inches in 30 foot rooms, 50 cents per lineal yard.

From 12 to 18 inches in 30 foot rooms, 80 cents per lineal yard.

From 18 to 24 inches in 30 foot rooms, $1.20 per lineal yard.

From 24 to 30 inches in 30 foot rooms, $1.60 per lineal yard.

From 8 to 12 inches in 20 foot rooms, 40 cents per lineal yard.

From 12 to 18 inches in 20 foot rooms, 60 cents per lineal yard.

From 18 to 24 inches in 20 foot rooms, 90 cents per lineal yard.

From 24 to 30 inches in 20 foot rooms, $1.20 per lineal yard.

When draw slate exceeds thirty inches the place will be considered deficient.

Coalville.

Scale of Mining rates and Local Provisions.

Pick Mining.

Per ton of 2,000 pounds, screened lump, $1.05.

Entries and entry crosscuts, per yard, $3.00.

Room crosscuts per yard, $1.50.

Room turning, $8.00. Room necks to be 10 feet in length.

Loading after shearing machines where miners do the drilling and shooting in entries, room necks and break throughs, per ton screened lump, $1.00; per yard, $1.00.

In rooms sheared by Company where miner does the drilling, shooting, timbering and loading, per ton screened lump, 98 cents.

In rooms undercut by Company where the miner does the drilling, shooting, timbering and loading, per ton
4311 screened lump, 90 cents.

It is understood that the above prices will not apply to coal mined on the third entries or lower. Should this part of the mine be opened up, prices governing same to be arranged between the Company and the Local Union and District Officers.

Coal delivered at Coalville only to employees, $2.50 per ton.

McCarthy Mine.

Scale of Mining Rates and Local Provisions.

Pick Mining.

93 cents per car.

Room turning, $8.00. Room necks to be 12 feet in length.

Entry and entry cross cuts, $3.00 per yard.

Room crosscuts, $1.50 per yard.

Coal to be sold to employees only, $2.50 per ton.

Stockett.

Scale of Mining Rates and Local Provisions.

Section 1. Machine men, 2.05 cents per square foot. Machine helpers 1.8 cents per square foot for all places over 12 feet wide. Machine men 3.15 cents per square foot and machine helpers 2.55 cents per square foot for all places 12 feet wide and under. In deficient places machine runner and helper to be made up to average day rate for such class of work. The Mine Committee and pit boss to decide what is a deficient place.

Section 2. Drillers working as partners, price per coal hole, 13 cents each; price for sump hole 33-½ cents each. price for lifting bottom holes, 33-½ cents each. Drillers who are working with helpers, $4-½ cents per coal hole and helpers 11-½ cents per coal hole. The same conditions to apply to drillers and drill helpers in making up deficient places as for machine men and helpers. Drillers
4312 working as partners, when temporarily drilling rock holes, will be paid the day rate provided for drillers.

Section 3. Loading Coal. Dry work 26 cents and wet work 27 cents per ton of 2,000 pounds, run of mine. No loader shall load coal in rooms, pillars or entries farther than 10 feet and loaders shall keep all rock nine feet from the face. Where more than the average quantity of rock exists the Company shall furnish men to clean such places.

Local Provisions.

Ground rent, $8.00 per year.

Lump coal, $2.50 per ton delivered.

Stockett.

No. 7 Mine.

Scale of Mining Rates and Local Provisions.

Section 1. Machine men 2.65 cents per square foot, machine helpers, 2.3 cents per square foot for all places over 12 foot wide. Machine men 3.6 cents per square foot and machine helpers 3.15 cents per square foot for all places 12 feet wide and under. In deficient places machine runner and helper to be made to average up to average day rate for such class of work. The Mine Committee and Pit Boss to decide what is a deficient place.

Section 2. Drillers working as partners, price per coal hole, 18-½ cents each. The same condition to apply to drillers and drill helpers in making up deficient places as for machine men and helpers. Drillers working as partners, when temporarily drilling rock holes, sump holes or lifting bottom holes, will be paid the day rate provided for drillers.

Section 3. Loading coal. Dry work 26 cents and wet work 27 cents per ton of 2,000 pounds, run of mine. No loader shall load coal in rooms, pillars or entries further than ten ten feet and loaders shall keep all rock nine feet from the face. Where more than the average quantity of rock exists the Company shall furnish men to clean such places.

4313

Sand Coulee.

Scale of Mining Rates and Local Provisions.

Mining rates.

Section 1. Machine men 2.05 cents per square foot; machine helpers 1.8 cents per square foot, for all places over 12 feet wide. Machine men 3.15 cents per square foot and machine helpers 2.55 cents per square foot for all places 12 feet wide and under. In deficient places machine runners and helpers to be made up to average day rate for such class of work. The Mine Committee and Pit Boss to decide what is a deficient place.

Section 2. Drillers working as partners, price for coal hole 13 cents each; price for sump hole 33-½ cents each;

drillers price for lifting bottom holes, 33-½ cents each; who are working with helpers, 14-½ cents per coal hole, and helpers 11-½ cents per coal hole. The same conditions apply to drillers and drill helpers, making up deficient places as for machine men and machine helpers. Drillers working as partners when temporarily drilling rock holes, will be paid the day rate provided for drillers.

Section 3. Loading coal. Dry work, 26 cents and wet work 27 cents per ton of 2,000 pounds, run of mine. No loader shall load coal in rooms, pillars or entries farther than 10 feet, and loaders shall keep all rock nine feet from the face; where more than the average quantity of rock exists, the Company shall furnish men to clean such places.

Section 4. Pick mining, 78 cents per ton of 2,000 pounds, run of mine.

4314 Section 5. Yardage in entries, $3.00 per yard; crosscuts in entries, $3.00 per yard; crosscuts between rooms, $1.50 per yard; room turning, $8.00, room necks to be 12 feet in length. All rooms 18 feet or under to be worked single.

Section 6 Where coal is five feet or less in height the same shall be taken up for adjustment and when deficient conditions appear in the bottom it shall be taken up for adjustment also.

Screened coal per ton delivered, $2.50.

Ground rent, per year, $8.00 for all members of the U. M. W. of A. this to apply to employees of the Nelson-Jenks Coal Co., the Gerber Coal Co., or other coal companies that may become members of the Montana Coal Operators Association.

This scale applies to mines operated by members of the Montana Coal Operators Association.

Tracy.

Lochray Mine.

Scale of Mining Rates and Local Provisions.

Pick mining, 78 cents per ton of 2,000 pounds, run of mine.

Entries and entry crosscuts, $3.00 per yard.

Room crosscuts, $1.50 per yard.

Room turning, $8.00 each, room necks to be 12 feet in length.

All rooms 18 feet or under to be worked single.

Screened coal per ton delivered, $2.50.

Ground rent, $8.00 per year.

Machine Work.

Machine men, wide work 2.5 cents per square foot.

Machine helpers, wide work, 2.2 cents per square foot.

Machine men, narrow work, 3.5 cents per square foot.

Machine helpers, narrow work, 3 cents per square foot.

Loading coal, shooting and timbering widework, 46-½
4315 cents per ton of 2,000 pounds, run of mine.

Loading coal and shooting in entries and entry crosscuts, 55 cents per ton of 2,000 pounds, run of mine.

Room necks to be 10 feet, $5.00.

Room crosscuts, per yard, $1.00.

It is understood that this scale of prices is to apply to present conditions. Rooms are to be driven 28 feet wide, two men to have two places in wide work.

Two men to have two entries and crosscuts between them. If these do not provide enough coal to load the average turn they shall be given the last room in the entry.

Ten men are to follow a double shift machine and if ten men are not enough to keep the machine in cutting the force may be increased by two men at a time, provided the men are given a fair turn. If ten men are too many the force shall be reduced in like manner.

Loaders shall not be compelled to throw their coal more than 15 feet in crosscuts.

Each machine to be furnished with sufficient picks, the same to be delivered by the Company to the closest working place.

Where coal is five feet or less in height the same shall be taken up for adjustment and when deficient conditions appear in the bottom it shall be taken up for adjustment also.

Brodie Mine.

Pick mining, per ton of 2,000 pounds, run of mine, 85 cents.

Entries, and entry crosscuts, dry, driven by hand, $3.25 per yard.

Entries and entry crosscuts, wet, driven by hand, $4.00 per yard.

Room crosscuts, when driven narrow, $1.50 per yard.

4316 Room turning, $8.00.

Bear Creek.

Bear Creek Coal Company's Mine.

Scale of Mining Rates and Local Provisions.

Pick Mining.

No. 1 vein, per ton of 2,000 pounds, 83 cents.

No. 2 vein, per ton of 2,000 pounds, 78 cents.

No. 3 vein, per ton of 2,000 pounds, 73 cents.

No. 4 vein, per ton of 2,000 pounds, 88 cents.

No. 5 vein, per ton of 2,000 pounds, 88 cents.

Entries $3.25 per yard.

Crosscuts (rooms and entries), $1.60 per yard.

Room turning $8.00, each, room necks to be 12 feet in length.

Machine Work, No. 3 Vein.

Section 1. Machine cutting, 12 feet or less, 4-¼ cents per square foot.

Machine cutting, over 12 feet wide, 2-¾ cents per square foot.

Loading, drilling and shooting, under 12 feet 53 cents per ton.

Loading, drilling and shooting over 12 feet, 47-½ cents per ton.

Loading machine slack, 50 cents per car.

Section 2. Ten men shall follow a single shift machine and if ten men are not enough to keep the machine in cutting, this number may be increased by two men at a time, provided, the men are given a fair turn. If ten men are too many the force shall be reduced in like manner.

Section 3. Two men shall have two working places and where two men have only two entries, and are not turn-
4317 ing rooms off same, they shall be allowed other places to load if their entries do not supply them enough coal

to load the average turn. Loaders will return to their entries within a reasonable time after the same are shot down.

Section 4. Room crosscuts shall be three cuts wide, except the last run, which may be two cuts wide. Where the loader has to throw coal more than 25 feet the Company shall place turn rails in such places.

Section 5. Short rails to be furnished each working place.

Section 6. Machine runners to replace all timbers and track, where they remove same, provided they shall not be required to move more than three timbers in any one place on any one cutting, and take up bottom coal if they leave any, provided, places cut are normal. It is understood that abnormal places are where rock, bone or sulphur appears in the bottom.

Section 7. In turning rooms where it is impossible for the machine men to cut on the bottom, in making the first run, the Company shall take up bottom coal.

Section 8. In case of break down of machines working single shift it is understood that machine men will be allowed to make up the time lost with their machines, either on idle days or night shift.

Section 9. When for any abnormal reason rooms cannot be driven 18 feet or more in width, they may be driven five cuts wide or a minimum of 15 feet, provided, that, in machine work, if the loaders are unable to get a fair turn, two loaders shall be given three such places. Rooms less than 15 feet in width shall be paid for at narrow work prices.

Brushing.

Six inches to 12 inches, per lineal yard, 75 cents.

4318 Twelve inches to 18 inches, per lineal yard, $1.25.

All brushing in excess of 18 inches to be taken up locally.

This does not include No. 4 vein.

All rooms under 18 feet to be worked single.

Price for crossbars, in rooms and entries, where necessary, to be settled locally.

Coal to be sold at mines to employees only, at $1.75 per ton.

Ground rent, 66-2/3 cents per month.

Bear Creek.

International Coal Company's Mine.

Scale of Mining Rates and Local Provisions.

Pick Mining.

No. 1 vein, per ton of 2,000 pounds, 83 cents.

No. 2 vein, per ton of 2,000 pounds, 78 cents.

No. 3 vein, per ton of 2,000 pounds, 73 cents.

No. 4 vein, per ton of 2,000 pounds, 88 cents.

No. 5 vein, per ton of 2,000 pounds, 88 cents.

Entries, $3.25 per yard.

Crosscuts (rooms and entries), $1.60 per yard.

Room turning $8.00 each, room necks to be 12 feet in length.

Machine Work. Vein No. 3.

Section 1. Machine cutting, 12 feet or less, 4-¼ cents per square foot.

Machine cutting over 12 feet wide, 2-¾ cents per square foot.

Loading, drilling and shooting under 12 feet 53 cents per ton.

Loading, drilling and shooting, over 12 feet, 47-½ cents per ton.

Loading machine slack 50 cent per car.

4319 Section 2. Ten men shall follow a single shift machine and if ten men are not enough to keep the machine in cutting, this number may be increased by two men at a time, provided, the men be given a fair turn. If ten men are too many the force shall be reduced in like manner.

Section 3. Two men shall have two working places and where two men have only two entries and are not turning rooms off same, they shall be allowed other places to load if their entries do not supply them enough coal to load the average turn. Loaders will return to their entries within a reasonable time after same are shot down.

Section 4. Room crosscuts shall be three cuts wide, except the last run, which may be two cuts wide. Where the loader has to throw coal more than 25 feet the Company shall place turn rails in such places.

Section 5. Short rails to be furnished each working place.

Section 6. Machine runners to replace all timbers and track where they remove same, provided, they shall not be required to move more than three timbers in any one place, on any one xutting and take up bottom coal if they leave any, provided, places cut are normal. It is understood that abnormal places are where rock, bone or sukphur appear in the bottom.

Section 7. In turning rooms where it is impossible for the machine men to cut on the bottom in making the first run, the Company shall take up bottom coal.

Section 8. In case of break down of machines working single shift it is understood that machine men will be allowed to make up the time lost with their machines either on idle days or on night shift.

Section 9. When for any abnormal reason rooms can-
4320 not be driven 18 feet or more in width, they may be driven five cuts wide or a minimum of 15 feet, provided that, in machine work if loaders are unable to get a fair turn, two loaders shall be given three such places. Rooms less than 15 feet in width shall be paid for at narrow work prices.

Brushing.

Six inches to 12 inches, per lineal yard, 75 cents.

Twelve inches to 18 inches, per lineal yard, $1.25.

All brushing in excess to 18 inches to be taken up locally.

This does not include No. 4 vein.

All rooms under 18 feet to be worked single.

Price for crossbars in rooms and entries where necessary, to be settled locally.

Coal to be sold at mines to employees only, at $1.75 per ton.

Ground rent, 66-2/3 cents per month.

Bear Creek.

Smokeless and Sootless Coal Companys Mine.

Scale of Mining Rates and Local Provisions.

Pick Mining.

No. 1 vein, per ton of 2,000 pounds, 83 cents.

No. 2 vein, per ton of 2,000 pounds, 78 cents.

No. 3 vein, per ton of 2,000 pounds, 73 cents.

Entries, $3.25 per yard.

Crosscuts (rooms and entries), $1.60 per yard.

Room turning, $8.00 each, room necks to be 12 feet in length.

Machine Work No. 3 vein.

Section 1. Machine cutting, 12 feet or less 4-¼ cents per square foot.

Machine cutting over 12 feet wide, 2-¾ cents per square foot.

4321 Loading drilling and shooting, under 12 feet 53 cents per ton.

Loading, drilling and shooting, over 12 feet, 47-½ cents per ton.

Loading machine slack, 50 cents per car.

Section 2. Ten men sholl follow a signleshift machine and if ten men are not enough to keep the machine in cuting, this number may be increased by two men at a time, provided, the men are given a fair turn. If ten men are too many, the force shall be reduced in like manner.

Section 3. Two men shall have two working places, and where two men have two entries, and are not turning rooms off same, they shall be allowed other places to load if their entries do not supply them enough coal to load an average turn Loaders will return to their entries within a reasonable time after the same are shot down.

Section 4. Room crosscuts shall be three cuts wide except the last run, which may be two cuts wide. Where the loader has to throw coal more than 25 feet the Company shall place turn rails in such places.

Section 5. Short rails to be furnished each working place.

Section 6. Machine runners to replace all timbers and track where they remove same, provided, they shall not be required to move more than three timbers in any one place at any one cutting, and take up bottom coal if they leave any, provided, places cut are normal. It is understood that obnormal places are where rock, bone or sulphur appears in the bottom.

Section 7. In turning rooms, where it is impossible for machine men to cut on the bottom in making the first run, the Company shall take up bottom coal.

4322 Section 8. In case of breakdown of machines working single shift it is understood that machine men will be allowed to make up the time lost with their machines either on idle days or on night shift.

Section 9. When for any abnormal reason rooms cannot be driven 18 feet or more in width, they may be driven five cuts wide or a minimum of 15 feet; provided, that in machine work if loaders are unable to get a fair turn, two loaders shall be given three such places. Rooms less than 15 feet in width shall be paid for at narrow work prices.

Brushing.

Six inches to 12 inches, per lineal yard, 75 cents.

Twelve inches to 18 inches, per lineal yard $1.25

All brushing in excess of 18 inches to be taken up locally.

All rooms under 18 feet to be worked single.

Prices for crossbars in rooms and entries where necessary, to be settled locally.

Coal to be sold at mines to employees only, at $1.75 per ton.

Ground rent, 66-2/3 cents per month.

Bear Creek.

Montana Coal And Iron Company's Mine.

Scale of Mining Rates And Local Provisions.

Pick Mining.

No. 1 vein, per ton of 2,000 pounds, 83 cents.

No. 2 vein, per ton of 2,000 pounds, 78 cents.

No. 3 vein, per ton of 2,000 pounds, 73 cents.

Entries $3.25 per yard.

Crosscuts, (rooms and entries) $1.60 per yard.

Room turning $8.00 each, room necks to be 15 feet in
4323 length.

Machine Work. No. 2 Vein.

Section 1. Machine cutting 12 feet or less, 4-½ cents per square foot.

Machine cutting, over 12 feet wide, 3 cents per square foot.

Loading, drilling and shooting under 12 feet, 57 cents per ton.

Loading, drilling and shooting, over 12 feet, 51-¼ cents per ton.

Machine Work. No. 3 Vein.

Sectino 1. Machine cutting 12 feet or less 41¼ cents per square foot.

Machine cutting over 12 feet wide, 2/3/4 cents per square foot.

Loading, drilling and shooting, under 12 feet, 53 cents per ton.

Loading drilling and shooting over 12 feet, 47-½ cents per ton.

Loading machine slack, 50 cents per car.

Section 2. Ten men shall follow a single shift machine, and if ten men are not enough to keep the machine in cutting, this number may be increased by two men at a time, provided, the men are given a fair turn. If ten men are too many, the force shall be reduced in like manner.

Section 3. Two men shall have two working places and where two men have only two entries and are not turning rooms off same, they shall be allowed other places to load if their entries do not supply them enough coal to load the average turn. Loaders will return to their entries within a reasonable time after same are shot down.

Section 4. Room crosscuts shall be three cuts wide
4324 except the last run which may be two cuts wide. Where the loader has to throw coal more than 25 feet, the Company shall place turn rails in such places.

Section 5. Short rails to be furnished each working place.

Section 6. Machine runners to replace all timbers and tracks where they remove same, provided, they shall not be required to move more than three timbers in any one place on any one cutting, and take up bottom coal if they leave any,

provided places cut are normal. It is understood that abnormal places are where rock, bone or sulphur appears in the bottom.

Section 7. In turning rooms, where it is impossible for machine men to cut on the bottom, in making the first run, the Company shall take up bottom coal.

Section 8. In case of break down of machine working single shift it is understood that machine men will be allowed to make up the time lost with their machines either on idle days or night shift.

Section 9. When for any abnormal reason rooms cannot be driven 18 feet or more in width, they may be driven five cuts wide or a minimum of 15 feet, provided, that, in machine work if loaders are unable to get a fair turn, two loaders shall be given three such places. Rooms less than 15 feet in width shall be paid for at narrow work prices.

Brushing.

Six to 12 inches per lineal yard, 75 cents.

Twelve to 18 inches, per lineal yard $1.25.

All brushing in excess of 8 inches to be taken up locally.

All rooms under 18 feet to be worked single.

Prices for crossbars in rooms and entries, where necessary to be settled locally.

4325 Coal to be sold to employees only at $1.75 per ton.

Ground rent, 662/3 cents per month.

Washoe.

Scale of Mining Rates And Local Provisions.

Pick Mining.

No. 1 vein, per ton of 2,000 pounds, 83 cents.

No. 2 vein, per ton of 2,000 pounds, 78 cents.

Entries $3.25 per yard.

Crosscuts (rooms and entries), $1.60 per yard.

Room turning $8.00 each (room necks to be 18 feet in length.)

Brushing.

Six to 12 inches per lineal yard, 75 cents.

Twelve to 18 inches, per lineal yard, $1.25.

All brushing in excess of 18 inches to be taken up locally.

All rooms under 18 feet to be worked single.

Price for cross bars in rooms and entries, where necessary, to be settled locally.

Coal to be sold at mines to employees only at $1.75 per ton.

Ground rent, 50 cents per month.

Roundup.

Republic Coal Company's Mine.

Scale of Mining Rates And Local Provisions.

Pick Mining.

Seventy-three cents per ton of 2,000 pounds, run of mine.

Entry and entry crosscuts, $3.25 per yard.

Room crosscuts, $1.60 per yard.

Room turning $8.00, room necks to be 18 feet in length.

Machine Work.

Section 1. Machine cutting for 12 feet or less, 3-¾ cents per square foot.

4326 Machine cutting over 12 feet, 1-¾ cents per square foot.

For loading, shooting and drilling for 12 feet or less, 60 cents per ton.

Loading, shooting and drilling, over 12 feet, 56-½ cents per ton.

Section 2. Twenty men shall follow a single shift machine, and if twenty men are not enough to keep the machine in cutting, this number may be increased by two men at a time, provided, the men are given a fair turn. If twenty men are too many the force shall be reduced in like manner.

Section 3. Two men shall have two working places, and where two men have only two entries, and are not turning rooms off the same, they shall be allowed other places to load, if their entries do not supply them enough coal to load the average turn. Loaders will return to their entries within a reasonable time after same are shot down.

Section 4. Room crosscuts to be 10 feet wide. Where the loader is required to throw coal more than 25 feet, he shall be paid 38 cents per lineal foot for each foot of crosscut over 25 feet from center of room.

Section 5. Short rails to be furnished each working place.

Section 6. Machine runners to replace all timbers and track where they remove same, provided, they shall not be required to move more than three timbers at any one place on any one cutting, and take up bottom coal if they leave any, provided, places cut are normal. It is understood that abnormal places are where rock, bone, or sulphur appears in the bottom.

Section 7. In turning rooms, where it is impossible for machine men to cut on the bottom in making the first run, the Company shall take up bottom coal.

4327 Section 8. In case of breakdown of machines working single shift it is understood that machine men will be allowed to make up the time lost with their machines either on idle days or night shift.

Section 9. Where rooms are driven narrower than normal width, if the loaders are unable to get a fair turn, each two loaders shall be given an extra place.

Section 10. Machine men shall be furnished tools, such as picks, shovels, machine bits and black oil to be delivered to the working place of each machine.

Section 11. In case the Company decides to use machines cutting pillars, it is understood that machine men shall have the same working face as in rooms.

Local Provisions.

Where vein is less than five feet thick, it shall be taken up as provided for in Section 24, General Provisions.

Forked coal delivered in camps to employees only, at $2.75 per ton.

Head bottom cager, $3.75 per day.

Roundup.

Roundup Coal Mining Company's Mine.

Scale of Mining Rates And Local Provisions.

Pick Mining.

73 cents per ton of 2,000 pounds, run of mine.

Entry and entry crosscuts, $3.25 per yard.

Room crosscuts, $1.60 per yard.

Room turning, $8.00, room necks to be 16 feet in length.

Machine Work.

Section 1. Machine cutting for 12 feet or less, 3-¾ cents per square foot.

4328 Machine cutting over 12 feet, 1¾ cents per square foot.

For loading, shooting and drilling for 12 feet or less, 60 cents per ton.

Loading, shooting and drilling over 12 feet, 56-½ cents per ton.

Section 2. Twenty men shall follow a single shift machine and if 20 men are not enough to keep the machine in cutting, this number may be increased by two men at a time, provided, the men are given a fair turn. If 20 men are too many, the force shall be reduced in like manner.

Section 3. Two men shall have two working places and where two men have only two entries, and are not turning rooms off same, they shall be allowed other places to load, if their entries do not supply them enough coal to load the average turn. Loaders will return to their entries within a reasonable time after same are shot down.

Section 4. Room crosscuts shall be three cuts wide, except the last run, which may be two cuts wide. Where the loader has to throw coal more than 25 feet, the Company shall place turn rails in such places.

Section 5. Short rails to be furnished each working place.

Section 6. Machine runners to replace all timbers and track where they remove same, provided, they shall not be required to move more than three timbers at any one place

on any one cutting, and take up bottom coal if they leave any, provided places cut are normal: It is understood that abnormal places are where rock, bone or sulphur appears in the bottom.

Section 7. In turning rooms, where it is impossible for machine men to cut on the bottom in making the first run, the Company shall take up bottom coal.

4329 Section 8. In case of breakdown in machines working single shift, it is understood that machine men will be allowed to make up the time lost with their machines either on idle days or night shift.

Section 9. Where rooms are driven narrower than normal width, if the loaders are unable to get a fair turn, each two loaders shall be given an extra place.

Local Provisions.

Where vein is less than five feet thick it shall be taken up as provided for in Section 24, General Provisions.

Lump coal delivered in camp to employees only, $2.75 per ton.

To employees living south of railroad track $3.00 per ton.

Roundup.

Davis Coal Company.

Scale of Mining Rates and Local Provisions.

Pick mining, run of mine 2,000 pounds, vein four feet to five feet, 83 cents.

Pick mining, run of mine, 2,000 pounds, over five feet, the same price, to be paid as Nos. 2 and 3.

Entries and entry crosscuts, $3.25 per yard.

Room crosscuts, $1.60 per yard.

Room turning, $8.00, room necks to be 16 feet long.

When the vein is 3 feet 9 inches or under, it shall be considered deficient work and the price shall be agreed on between the management and the local union.

Local Provisions.

Coal furnished to employees in camp only, $2.25 per ton, mine run.

Company will sink ties for laying track until such time,
4330 as the height of the vein is such that it is not necessary. The Company will move wheel post.

Roundup.

Pine Creek Coal Company.

Scale of Mining Rates and Local Provisions.

Pick Mining, run of mine, 2,000 pounds, three feet clean coal and under four feet, 95 cents.

Pick mining, run of mine, 2,000 pounds, four feet thick and under five feet, 83 cents.

Pick mining, run of mine, 2,000 pounds, five feet and over, 73 cents.

Entry and entry crosscuts, $3.25 per yard.

Room crosscuts, $1.60 per yard.

Room turning, $8.00.

Local Provisions.

All work shall be single in the low coal. After coal is over five feet in entries, the Company has a right to work entries double. The same to apply to rooms. Where wood ties are used the Company shall dig all the holes.

The Company agrees to furnish the miners with the brand of powder they desire, if possible, the same to be delivered to the working place. Where rock is in the seam, the price applied to the Bear Creek Mine for brushing, shall be the price paid for this work, under present conditions, the Company to furnish Giant powder in entries. Rooms to be 22 feet wide.

Employees to be furnished mine run coal at $2.25 per ton delivered, and $1.50 otherwise.

Hoffman.

Scale of Mining Rates and Local Provisions.

Coal $1.06 per car.

4331 Room crosscuts 50 cents per foot.

Room necks and first crosscuts, 75 cents per foot.

Entries shall be driven by day wages until some price can be agreed upon locally for same.

Lump coal delivered to employees only, $3.50 per ton. Mine run delivered to employees only, $2.25 per ton.

Chimney Rock.

Scale of Mining Rates and Local Provisions.

Coal, $1.18-½ per car.

Entries, 75 cents per foot.

Room crosscuts, 50 cents per foot.

Room turning, 50 cents per foot.

Price of crossbars in rooms and entries where necessary to be taken up locally.

Lump coal delivered to employees only, $3.50 per ton.

Mine run coal delivered to employees only, $2.25 per ton.

Helena, Montana, Sept. 16, 1914.

It is hereby agreed between the Montana Coal Operators' Association and the United Mine Workers of America, District No. 27, that the foregoing scale of prices and the foregoing rules and provisions shall be in effect for two years, commencing October 1st, 1914, and terminating September 30th, 1916.

And it is further agreed that the parties to this contract shall meet at a place and time to be decided by the Joint Executive Board for the purpose of formulating another agreement.

This agreement applies only to mines being operated in the state of Montana.

On behalf of the Montana Coal Operators' Association,

4332

F. W. C. WHYTE,
President.
M. F. PURCELL,
Secretary,

On behalf of United Mine Workers of America,

HENRY DRENNAN,
District 27, President.
ROBERT CONDON,
District 27, Secretary.

On behalf of the Scale Committee.

HENRY DRENNAN,
JAMES HUNTER,
ROBERT CONDON,
ADAM WILKINSON,
JAMES NEEDHAM,
JAMES PEARSON,
C. C. ANDERSEN,
F. W. C. WHYTE."

4333 Exhibit C.

Agreement between Montana Coal Operators' Association and United Mine Workers of America, District No. 27, Montana.

Two Years Commencing Oct. 1, 1916 Ending Sept. 30, 1918.

For Mines in Montana

General Provisions

Hours of Labor.

Section 1. (a). It is definitely understood that this agreement is based on an eight-hour day. An eight-hour day means eight hours' work at the usual working working place, exclusive of one-half hour for mid-shift lunch, six days a week, when required by the operator, Sundays and legal holidays excepted.

(b). However, this does not prohibit engineers, rope riders and motormen from working the time necessary to hoist and lower men and material, nor does it apply to those men whose employment requires them to work seven days in the week or the making of necessary repairs. All such hours work over eight shall be paid for at the scale rate of an eight hour basis.

(c). In case of emergency, which means any unlooked for event that would tend to impede the operation of the mines the following shift, the operators shall have the right to work the men necessary to put the mine in proper condition.

(d). Drivers and motor men shall work full eight hours in their respective places. Drivers shall take their mules to and from the stables and the time for so doing shall not be included as a part of the day's labor, provided that not more than fifteen minutes is required in going to or returning from his working place and stable.

The Right to Hire and Discharge.

Section 2. The right to hire and discharge, the management of the mine and the direction of the working forces are vested exclusively in the operator, and the U. M. W. of A. shall not abridge this right. It is not the intention of this provision to encourage the discharge of employees or the refusal of employment of applicants because of personal prejudice, or activity in matters affecting the company or the U. M. W. of A.

Preference in Employment.

Section 3 (a). When hiring new men the operator or his representative shall give preference to card bearing members of the U. M. W. of A. when such transfer cards are produced. This section shall not prevent the hiring of other men when there are no union men applying for work, nor shall it be construed to compel the employment of inefficient men.

(b). In case an employe is thrown out of employment, he shall be given preference of employment in the same or other mines in the same camp, operated by the same Company.

When all or a part of a mine is closed down, the oldest employes among the contract miners and also among the different classes of day men shall be given preference in the remaining work.

Employees shall report for work within three days after the mine resumes operation and notice of resumption of operations will be posted by the operator, prior thereto.

Employees who accept or procure employment in other coal mines in the State of Montana, forfeit their rights for reemployment.

Checi-Off.

Section 4. The operators agree to check off all union dues, assessments, initiation fees and such fines as are provided for in this agreement, or as may be agreed upon by the District President and the Coal Operators' Commissioner or their authorized representative from all miners and mine laborers in and around the mine when requested by the local of the U. M. W. of A.

In order to protect the operators the U. M. W. of A. agrees to furnish individual orders authorizing the company to make such deductions.

It is understood that after fuel charges and the pit expenses for powder, smithing and a proper proportion of mine tools

are deducted, the operator will give preference to the regular dues and also not to exceed $5.00 in any one pay for assessments, fines and initiations.

The operators will furnish to the miners' local representative a monthly statement showing separately the amount of dues, assessments, fines and initiation fees collected and also showing those from whom dues and assessments have been collected.

In case any fine is imposed, the propriety of which is questioned, the amount of such fine shall be held by the operator until the case has been taken up for adjustment and a decision reached.

Adjustment of Disputes.

Section 5 (a). In case of any local trouble arising in the mine through failure to agree between the pit boss or foreman having proper jurisdiction and any miner or mine laborer, the pit committee and the pit boss or foreman are empowered to adjust it, and in case of their disagreeing it shall be investigated by the local Executive Board, and if they find merit in the case they shall take it up with the Superintendent of the company or his representative, and if they fail to agree it shall be referred to the Manager of the Company, or the
4336 Commissioner Montana Coal Operators Association and the District President of the U. M. W. of A. or his representatives for adjustment. But no case shall be taken up for investigation or adjustment unless the parties involved continue to work until a final decision is reached.

(b). If any day man refuses to continue at work because of a grievance which has or has not been taken up for adjustment in the manner provided herein, and such action shall seem likely to impede the operation of the mine, the Pit Boss or Foreman, with the approval of the Pit Committee, shall immediately select a man or men to take such vacant place or places, at the scale rate, in order that the mine may continue at work, and it shall be the duty of any member or members of the United Mine Workers who may be called upon by the Pit Boss or Foreman, with the approval of the Pit Committee, to immediately take such place or places assigned to him or them, in pursuance hereof.

(c). If any employee be discharged or suspended by the company, and it is claimed that an injustice has been done, the case shall be investigated and taken up promptly as provided for in paragraph (a) of this section. If it proven that an injustice has been done, the operator shall reinstate such em-

ployee and pay him full compensation for the time he has lost while so discharged or suspended; provided, however, that if no decision shall be rendered within five days the case shall be considered closed so far as compensation is concerned. If such failure to arrive at a decision within five days is owing to a delay on the part of the operator, the compensation paid shall not exceed ten days, or if the matter has to be referred to the Joint Executive Board compensation paid shall not exceed fifteen days; but if the failure to arrive at a de-
4337 cision within the original five days is owing to delay on the part of the miners, and the case has to be referred to the Joint Executive Board, then the compensation paid shall not exceed ten days.

It is agreed that the Local Executive Board of the U. M. W. of A. shall investigate the merits of all grievances before submitting them to the Superintendent.

(d). When trouble of a local character arises between the members of a local union and their local employer, and they are unable to adjust it satisfactorily, as provided in paragraph "a" of this Section, it shall be referred to the Joint Executive Board, accompanied by written statements prepared by the District President of the U. M. W. of A. and the Commissioner of the M. C. O. A., or their representatives, presenting the points in dispute and the facts involved.

In the event of the Joint Executive Board failing to agree, a joint statement of facts shall be prepared by them and the entire matter submitted to a party or parties to be agreed upon by said Board for final settlement. Provided, however, that discharge or suspension cases shall not go further than the Joint Executive Board unless mutually agreed to by said Board.

The Joint Executive Board shall be composed of three members of the executive committee of the Montana Coal Operator's Association and three members of the Executive Board of District No. 27, United Mine Workers of America. All questions referred to the Joint Executive Board shall be decided by majority vote. Each side shall be entitled to equal voting strength.

No member of the Executive Board of District No. 27, U. M. W. of A. shall act as a member of the Joint Executive Board when disputes arising in the sub-district which he represents, are under consideration, nor shall any member of the
4338 M. C. O. A. act as a member of the Joint Executive Board when disputes arising at the mines which he manages or operates are under consideration.

The Commissioner of the Montana Coal Operator's Association and the District President of the United Mine Workers of America, or their representatives shall not be permitted to act as members of the Joint Executive Board in the event they have personally handled the case.

The Commissioner of the M. C. O. A. and the District President of the U. M. W. of A. or their representatives, after presenting the case to the Joint Executive Board, shall immediately retire from the meeting and under no consideration shall they take part in the deliberations of the said board.

When a meeting of the Joint Executive Board is demanded by either side, said Board shall be convened within five days from the time application for the meeting is made, and at such time and place as may be mutually agreed upon by the Commissioner of the M. C. O. A. and the President of District No. 27, U. M. W. of A.

In any event, the local union shall remain at work until the International President, or the International Executive Board and the District Executive officers have authorized a strike.

Pit Committee.

Section 6 (a). The Operators shall recognize the Pit Committee in the discharge of their duties as provided in this agreement. The duties of the Pit Committee shall be confined to the adjustment of disputes between the Pit Boss or Foreman having proper jurisdiction and any member of the U. M. W. of A. working in or around the mines, arising out of this agreement, the Pitt Boss or Foreman and said miner
4339 or mine laborers having failed to agree.

(b). The Pit Committee in the discharge of its duties shall, under no circumstances, go around the mine for any cause whatever, unless called upon by the Pit Boss or by a miner or company man who may have a grievance that he has first tried to and cannot settle with the Boss. Any Pit Committeeman who shall attempt to execute any local rule or proceeding in conflict with any provision of this contract, or any other made in pursurance thereof, shall be forthwith deposed as Comitteeman and shall thereafter be ineligible to act as Committeeman during the life of this contract.

(c). Members of the Pit Committee employed as day men shall not leave their places of duty during working hours, except by permission of the operator, or in cases involving a stoppage of the mine.

Engineers.

Section 7 (a). In case of either local or general suspension of work, either at the expiration of this contract or otherwise, the engineers, firemen, pumpmen and others required by the company for protection of property shall not suspend work, but shall, when mining is suspended, fully protect the company's property, under their care, and shall operate fans and pumps and lower and hoist such men and supplies as may be required to keep up steam at the company's coal plant; provided, that no such employee is discharged or suspended in order to make room for a non-union employee. It is understood and agreed that the operator will not ask them to hoist any coal produced other than that required for the operation of the plant.

(b). No engineer shall be subject to the authority or supervision of the Pit Committee, but in case of any disa-
4340 greement which he cannot settle with the Foreman and Local Executive Board, the subject shall be taken up by the District President or his representative and the Coal Operators' Commissioner for adjustment. All engineers shall do their own firing or any other work connected with the machinery assigned them by the operators in places where it is practicable and their duties as engineers do not prohibit their so doing. This clause shall not be construed to mean that an engineer can be used on idle days to the exclusion of a regular fireman or other employee.

(c). In case of a suspension of work pending a settlement, all engineers, firemen, pumpmen and other employees engaged in protecting property shall be paid the scale finally agreed upon.

Check Weighmen.

Section 8. Miners may elect a check weighman who must be an employe of their mine at the time of and for at least three months previous to his election, and the Company shall furnish him with a check number and he shall credit to his number such portion of each miner's or loader's coal as may be necessary to pay his wages. In mines where the men are unable to support a regular check weighman they shall have the right to elect a miner or loader employed at that time to act as temporary check weighman when necessary, and the Company shall give any man so elected his work back at the end of his labors as check weighman.

Construction Work and Repairs.

Section 9. The erection of head frames, buildings, scales, machinery, railroad switches, etc., necessary for the completion of a plant for loading coal, all being in the nature of construction work, are to be excluded from the jurisdiction of the U. M. W. of A. Repairs to or rebuilding of same class of work shall be included in the same exception, emp-
4341 loyees thereon to be excluded as above when employed on such work.

Employees not under Jurisdiction of U. M. W. of A.

Section 10. No scale of wages shall be made by the U. M. W. of A. for Mine Boss, Assistant Mine Boss, Top Foreman, Company Weigh Boss, Boss Driver, Night Boss, Head Carpenter, Watchman, Master Mechanic, and Head Electrician. The words "Head Electrician" and "Head Carpenter" shall apply in cases where he has supervision over two or more men performing the same clas sof labor.

Pay Day.

Section 11. Employees shall receive their pay in semi-monthly periods. In no instance shall pay day be later than sixteen days after the period closes in which pay was earned. In camps where Saturday pay day is mutually desired the question may be taken up for adjustment by the local union and the management of said mine or mines.

The matter of paying in currency may be taken up locally by the Local Union and the Mine Management, to the end that a satisfactory arrangement may be effected. At camps where payment is made in currency it is understood that employees shall call for their pay on pay day, otherwise accept checks. The Company will issue itemized statements two days prior to pay day.

Price of Powder.

Section 12. Black powder is to be sold to the miners at $2.40 per keg, giant powder 20c per pound, XXX caps 75c per hundred, XXXX caps 80c per hundred XXXXX caps $1.00 per hundred, double tape fuse 75c per hundred feet.

All black powder sold to employees by the Company or its authorized agent will be delivered to a suitable storage
4342 receptacle at the inside parting nearest to the working place, the Company's responsibility to cease when this

is done. The Mine Foreman and Pit Committee may agree on a suitable person to take charge of the key to each receptacle.

Where there is no parting on the entry, the powder receptacle will be placed within one thousand feet of the outside working room or the miner shall have his powder delivered to his working place.

Right of Purchase.

Section 13. The employees shall have a right to buy where they please, without discrimination, but all powder, caps and fuse used in the mine must be of some standard brand and the grade thereof must conform to that customarily used in the mine and be satisfactory to the operator. This provision will not be used to prevent the testing of another grade when mutually agreed to.

Holidays.

Section 14. New Year's Day, April 1st, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day, and one-half day on all district and international election days shall be observer as holidays.

Delivery of Cars.

Section 15. Miners or loaders shall not be required to push their cars more than one hundred feet, and in cases where the roadway is so steep that the man or men working in the room cannot push the cars they shall be delivered at the face by the driver. This rule does not affect rooms where the cars are operated by McGintys.

Supply of Cars.

Section 16. (a). —The Operator shall see that an equal
4343 turn is offered each miner, and shall so regulate the number of miners and loaders in the mine that each one shall be offered a fair turn under normal conditions. When any difference arises locally as to what constitutes a fair turn, the District President and the Operators' Commissioner shall go to the locality and determine what shall constitute a fair turn in accordance with this section.

(B). The Mine Manager shall designate some one to act as turn-keeper and the drivers shall be subject to said turn-keeper and to him only in all matters affecting the equal turn. The check-weighman may keep a turn bulletin for the information of the miners, and when any differences oc-

car, he and the turn-keeper shall jointly examine the turn bulletins and satisfy themselves as to their correctness. The turn-keeper's bulletin shall govern the equal turn when it is proven correct by such joint examination. The turn-keeper shall report the turn each day to the check-weighman for the purpose of keeping the same correct. The correctness of the turn-keepers' bulletins shall not be questioned after the expiration of three days from the day at issue.

(c). Any miner shall be considered as having loaded the highest turn offered in the run in which he works each day, whether he is present at work or not. In the event he is hindered from loading the same through some unavoidable circumstance, it shall be the duty of the driver in charge of that run to make up such cars, provided the miner is able to load the same, unless he has been otherwise provided for by contract or day's work.

(d). Should any run become one day's turn, either ahead or behind the average turn of the mine during any pay period, under normal conditions, the management shall so regulate the driving that such runs shall be either made up or held back during the next pay period, so as to
4344 equalize the turn, and should the management fail to do so, then the men in the run having the highest turn shall be suspended from loading coal until same is remedied. This does not apply to mines having an unlimited turn.

(e). In no way shall the miners or mine workers restrict the number of cars loaded by the miner.

(f). In mines where there is both hand and machine mining an equal turn shall mean approximately the same turn to each man in the machine part of the mine and approximately the same turn to each man doing hand work, but not necessarily the same to each hand miner as to each man working with the machines.

Manner of Loading Cars.

Section 17. Miners and loaders shall load pit cars in a careful manner. The mine foreman and pit committee may agree upon a maximum height to which cars may be loaded.

Wrecked Cars.

Section 18. All loaded cars of coal which have been dumped by getting off the track or otherwise shall be paid

for at the average weight of said miners' cars weighed that day. All wrecked cars shall be marked by drivers, rope riders, motormen and those handling cars by placing some suitable mark thereon indicating that they have been wrecked, as directed by the company.

Employee Working Both Inside And Outside.

Section 19. Employees whose duty is both inside and outside the mines shall be classed as inside employees.

Miners On Other Work And Day Men.

Sec. 20. An employee taken from the face to do other work shall be paid miners' schedule pay while so em-
4345 ployed, and in no instance shall be be paid less than the maximum wages for the class of work at which he is employer. All other employees to give proper care to the duties to which the foreman may assign them.

When day men enter the mine in the morning to put the mine in operation, they shall be entitled to two hours' pay whether the mine works or not but they shall perform such work as the foreman may direct.

Working Idle Days.

Section 21. No miner or loader shall be allowed to work in rooms on idle days making or loading coal. In cases where the mines are working three days or less a week and it is necessary to push development work full time, the development work shall be divided among the miners working in said mine, but it is understood the same rate of advancement of entry shall be maintained by the new men, and the company shall not be called upon to settle any disagreement between the men. On idle days shall be divided, as far as possible, between the day men engaged on similar work.

Regulating Night Shift.

Section 22. Where men are employed night shift continuously they shall be given preference over new men on day, provided they are competent to do the work.

Tool Sharpening.

Section 23. Where the company does the sharpening the price of blacksmithing shall be one per cent of the gross earnings, the miners' tools to be given preference over all other work done by the blacksmiths, and tools to be sharpened in a workmanlike manner. Present practice as to repairs to continue.

4346 Deficient Places.

Section 24. All deficient places may be driven at a price to be decided upon between the pit boss and the miners working in such places, provided an agreement can be reached that is satisfactory to both parties. Where the deficient condition appears to be more or less continuous said agreement to be in writing and copy sent to the District President and Commissioner of the Montana Coal Operators' Association.

In the event of no agreement being reached the miners shall be provided with other places in the mine if available, and the company shall then have the privilege of further driving the deficient places either by special contract with other miners or by day's work as it sees fit. It is agreed that no miner shall be discharged on account of failure to agree upon a price for deficient work.

Removal of Water And Furnishing of Supplies.

Section 25. The company shall keep the mine in as dry a condition as practicable by keeping the water off the road and out of the working place. When a miner or loader is unable to work at his usual working place on account of the company's negligence in failing to remove water from the working place or supply him with material that they have agreed to furnish him, they shall employ said miner or loader doing company work where practicable, or he shall be given another working place equal to the average place of the mine, if such place is available, until such water is removed or material supplied him.

Responsibility For Careless Timbering Or Shooting.

Section 26. (a). It shall be the duty of all miners and loaders to care for their working place in a proper manner.

4347 (b). In case of a fall in a miner's or loader's place for which he is not responsible or which is due to the company's negligence in failing to supply material to properly timber or care for said place, the pit boss shall have such fall removed or have men working to remove such fall within a reasonable time after receiving such notification. It is understood that every effort should be made by the foremen and miners affected to come to an agreement and that preference be given the miners to do the work, provided an agreement can be reached to the end that the place affected be cleaned up as soon as practicable.

(c) If any miner or loader shall fail to properly timber, shoot and care for his working place and such failure has entailed falls of rock, slate and the like, the miner or loader whose fault has occasioned such damage shall repair the same without compensation, and if such miner or loader fails to repair the damage he may be discharged.

(d). It is futher agreed that where cars or other equipment are damaged through carelessness either in blasting or otherwise, the miner or loader shall pay for such damage.

Crossbars.

Section 27. In rooms where the mine foreman directs the miner or loader to place crossbars to permanently secure the roadway, then, and in such cases only, the miner shall be paid for each crossbar when properly set. The foregoing does not contemplate any change from the ordinary method of timbering by the miner for his own safety.

Laying Track.

Section 28. The company shall lay all permanent tracks in entries, and miners and loaders shall lay entry and room rails as at present. The miners and loaders shall maintain and repair the track one hundred feet from the face; provided, however, that when a miner or loader is as-
4348 signed a working place operated there before by another miner, then the company shall place track in the same in first class shape. This clause does not apply to mines where the company is laying and maintaining tracks at present for contract miners and loaders.

Tools And Materials.

Section 29. The company shall furnish all necessary supplies, such as rails ties, timber and other materials at each working place as required. They shall also furnish all necessary tools to company men; provided, however, that they exercise the necessary caution in caring for the same. Any employee losing or destroying company tools through carelessness or negligence or deliberately causing the loss of material belonging to the company shall replace the same as his own expense. This does not mean that the company shall furnish tools to carpenters, machinists, or others, who generally furnish part or all of their own tools.

Man Trips And Tool Cars.

Section 30. The running of man trips and the manner and time of so doing will be arranged by each local superinten-

dent and local union. The question of tool cars may be taken up locally at new mines or at mines where arrangements for same have not been agreed upon.

Slants And Long Crosscuts.

Section 31. All slants where such are used for haulage ways shall be paid the same price per per yard as entries. Where miners or loaders are required to drive more than thirty feet of crosscut from one side they shall be paid entry price per yard for all distance in excess of thirty feet.

4349 Shooting Time.

Section 32. In mines where it it is customary to shoot only once a day there shall be no shooting sonner than fifteen minutes before quitting time except by special permission.

Penalties For Stoppage of Work.

Section 33. (a). If any employee or employees shall cause stoppage of work in violation of this agreement he or they shall be subject to discharge by the company without recourse.

(b). Should any officer of the U. M. W. of A. or any local union or its members employed at any mine, cause the mine or part of the mine to shut down in violation of this agreement, each member of the U. M. W. of A. employed at such mine, except those who continue at work, shall be fined $1.00 for each day or part of a day that the mine is thus thrown idle.

(c). Should any operator or his representatives, cause a mine or part of a mine to shut down in violation of this agreement, he shall be fined one dollar per man affected for each day or part of a day that the mine is thus thrown idle.

(d). Should any operator, or his representative, refuse to put into effect any written decision that may be agreed to under the provisions of this contract by the representatives of the U. M. W. of A. and the representatives of the Montana Coal Operators' Association, or any decision that may be handed down by any party or parties who may be hereafter empowered by the two organizations to render such decision, said operator shall be fined the sum of fifty dollars for each offense.

(e). All fines collected as provided in paragraphs (b),

(c) and (d) of this section shall be paid one-half to the Secretary-Treasurer of District No. 27, U. M. W. of A. and one-half to the Secretary of the Montana Coal Operators' Association, and in no circumstances shall any fine so collected be refunded except when agreed to by the two organizations.

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Penalty For Absence From Work.

Section 34. When an employee absents himself from his work for a period of two days or persists in working irregularly, except through proven sickness, or by first having properly arranged with the pit boss or foreman and obtained his consent, he may discharged without recourse. Miners or other employees unable to work, unless on account of proven sickness, must notify the pit boss or foreman at once. All employees whose absence would cause a stoppage of work, must, before absenting themselves from work, properly arrange with the pit boss or foreman for their absence, otherwise they may be discharged without recourse.

Employees receiving minor injuries shall arrange to notify the management at their earliest convenience and employees absent on account of sickness shall notify the management within three days if possible to do so.

Penalty for Inducing Men To Quit Work.

Section 35. Drivers or other employees found guilty of inducing miners or laborers to leave the mine before the regular time for quitting will be subject to discharge. Where the mine only runs part of the day, the miners and loaders shall be notified by the foreman or drivers and no shooting shall be done for one hour after the mine has shut down.

Penalties or Loading Impurities.

Section 36. The companies may designate a competent person to act as coal inspector, said inspector shall be a member of the U. M. W. of A. in case rock, slate, bone, clay, sulphur or other impurities are loaded by miners or loaders, said inspector shall estimate weight thereof, and cause same to be deducted from the weight of car.

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Where three offenses occur within thirty days, the miner or loader so offending shall be suspended from his work for a period of six days of mine operation.

For any aggravated or malicious offense, the party so offending shall be subject to discharge.

A malicious or aggravated case is one in which the quantity, character or appearance of the impurities indicate that they were loaded with intentional carelessness or wrong purpose.

Grade of Miners' Oil.

Section 37. The use of black or kerosene oil as an illuminant in the mine is prohibited. If any employee other than driver, rope rider or motorman burns oil mixed with kerosene he shall be subject to a fine of one dollar for the first offense, two dollars for the second offense and may be discharged for the third offense. This money shall be collected through the company office and all money so collected shall be divided equally between District No. 27 of the U. M. W. of A. and the Montana Coal Operators' Association.

Doctor And Hospital.

Section 38. (a). The affairs of the doctor or doctors and hospital at each camp or group of camps shall be handled by a commission consisting of four members, three of whom shall be elected by the local union and one to be named to represent the employees not members of the union. The companies agree to make such deductions per capita, as are agreed on by the commission and local union and turn same over to the hospital commission. The funds thus collected and turned over to the hospital commission shall be used only for matters connected with doctor and hospital. The company shall not be required to make deductions for
4352 more than one doctor.

(Note). In the Bear Creek field, the present method of collecting for two doctors to continue, unless changed mutually by the company and the local union.)

(b). Should any doctor or doctors be discharged by the majority vote of those paying into the fund, and the vote cast as arranged for by the hospital commission, it shall require a majority vote of the commission to select another doctor or doctors. All complaints against the doctors must be presented to the commission and investigated by them, the doctors being given opportunity to defend themselves. No contract shall be made with any doctor which extends beyond the life of this agreement.

Any doctor who uses any unfair means or bribery to obtain the support of the members of the local shall be debarred from the position of doctor.

(c) All contracts between hospital commissions and doctors entered into during the life of this agreement must con-

tain provisions that the doctor shall make monthly reports in duplicate to both the company and the local union of all accidents occurring in and around the mine.

(d) In camps where the union or miners now have control of the hospital arrangements or funds, the arrangements shall remain as at present.

At Red Lodge the doctor and hospital arrangements shall be provided for in the local provisions.

Deaths and Funerals.

Section 39. (a) In the event of an instantaneous death by accident of a miner or employee while in the discharge of his duties, the miners or other employees, in the 4353 entry or at the place where the accident occurred may individually or collectively discontinue work for the remainder of that day, but work at the option of the operator shall be resumed on the day following and continue thereafter.

(b) When death has resulted from an accident in or around the mine, individual employees may absent themselves from work for the purpose of attending the funeral of the deceased, but not otherwise. Except in cases of accident as above, the mine in no case shall be thrown idle because of any death or funeral, but in the case of the death of an employee of the company or member of his family, an individual employee at his option may be absent himself from work for the purpose of attending such funeral but not otherwise.

Care of Injured.

Section 40. All companies shall keep sufficient blankets, oil, bandages, cots, etc., readily available at each mine to properly care for and convey injured persons in some suitable conveyance to their home or hospital after an accident. A room suitable for the temporary care of the injured shall where it is necessary, be provided at each mine by the company.

New Mines.

Section 41. When new mines are opened and developed during the life of this contract, or old mines desire to change the mining conditions, the question of mine rates and conditions shall be referred to the commissioner of the Montana Coal Operators' Association and the District President of the U. M. W. of A. and approved by them before any such rates are established. In the event of their failure

to agree, the matter shall be decided by the Joint Executive Committee of the U. M. W. of A. and the Montana Coal Operators' Association.

4354 Shaft Sinkers.

Sec. 42. The term "sinkers" in wage scale shall include all men working in werticle shafts, whether shoveling, drilling, shooting, pumping, timbering or otherwise until the time that the doorheads are in, and the Local Union shall not interfere with any disposition that either the company or its contractor may make of the men. Where oil clothes and rubber boots are necessary in shafts, the same shall be supplied by the company at its expense.

No Conditions to Conflict with this Agreement.

Sec. 43. No locals or company shall be allowed to make or enforce any conditions, which conflict with the terms of this agreement or to change any existing conditions, not changed or provided for in this agreement. In case of conditions arising locally requiring any modification of this agreement or a change in existing conditions, such modification or changes shall be mutually agreed upon by the District executive officers of the U. M. W. of A., and the executive committee of the Montana Coal Operators Association.

Contract not to be Voided by Miners' Constitution or Rules.

Sec. 44. This contract is in no case to be set aside because of any rules of the U. M. W. of A. now in force or which may hereafter be adopted, nor is this contract to be set aside by reason of any provision in their National, State or Local constitutions. Neither shall the Montana Coal Operators violate said agreement.

Enforcement of Contract.

Section 45. This contract being mutually agreed to, it is definitely understood that it is equally binding upon
4355 the two organizations to see that its written provisions are adhered to. When any evasion of this contract by either the miners or operators is brought to the notice of the District President and the Operators' Commissioner, it shall be their duty to see that its terms are complied with.

Continuation of Work.

Section 46. If no agreement is reached at the expiration of this contract, the mines shall continue in operation pend-

ing negotiations or until negotiations are discontinued by either party to the agreement.

As long as the mines continue in operation after the expiration of this contract, until the new agreement is reached, the various conditions enumerated herein, shall remain in effect, but the scale of wages and contract prices finally agreed upon shall be retroactive to the date of expiration of this contract.

Scale of Day Wages.

	(Outside)	Per Day.
	Engineers, first class,	$4.20
	Engineers, second class and box car loader engineers,	3.67
	Water tenders,	3.52
	Fan firemen	3.52
	Blacksmiths	4.20
	Tool sharpeners	3.94
	Blacksmith's helpers	3.15
	Carpenters,	4.10
	Car repairers,	3.83
	Car repairers' helpers	3.15
	Machinists, first class	4.20
	Machinists, second class	3.67
	Coal inspector	3.31
4356	Drill boys, minimum	$1.89
	Firemen,	3.52
	Head Brakemen,	3.47
	Other Brakemen,	3.15.
	Electricians, first class, in and around the mine,	4.20
	Electricians, second class, in and around the mine,	3.67
	Rope Cutters, when so specially engaged,	3.31
	Drivers,	3.31

Head Dumpers	3.31
Other tipple men,	3.15
	Per Month.
Barnmen in charge of more than fifteen head of stock,	$100.00
Barnmen in charge of less than fifteen head of stock,	84.00
Assistant barnmen,	73.50
Teamsters,	$ 3.31
Head Breakermen	3.94
Other Breakermen,	3.15
Boys on picking tables, minimum,	1.63
Men on picking tables,	3.05
Boys on breakers, minimum,	1.63
Jig men,	3.41
Other washermen	3.15
Greasers,	2.62
Oiler and wiper,	3.31
Timber framer,	3.31
Box car shoveler,	3.31
Motormen	3.78
Outside labor not classified,	3.05

4357 Scale of Day Wages.

(Inside)	Per Day.
Miners,	$3.99
Timbermen,	3.99
Timbermen Helpers,	3.57
Track Layers,	3.99
Tracklayers' Helpers,	3.57
Bratticemen,	3.94
Shooters and shot firers,	3.94

	Machine Runners,	4.10
	Machine Runner Helpers,	3.57
	Drillers,	3.94
	Drillers' Helpers,	3.57
	Machine Repairers,	4.20
	Head Pipemen,	3.94
	Other Pipemen,	3.57
	McGinty repairer, rope splicer,	3.94
	Drivers,	3.78
	Team Drivers,	3.94
	Motormen,	3.78
	Inside Engineers,	3.57
	Parting men and connection men,	3.57
	Rope riders,	3.57
	Rope riders, main rope,	3.94
	Jackman,	3.78
	Greasers,	2.47
	Flaggers,	2.36
	Boy couplers on partings,	2.47
	Pulley Repairers,	3.94
	Trappers,	1.78
4358	Pick carriers,	$2.36
	Barnmen,	3.67
	Pumpmen,	3.94
	Shaft sinkers,	4.20
	Inside labor not classified,	3.57

Red Lodge.

Scale of Mining Rates and Local Provisions.

Mining Rates.

Veins 4 and 5, per ton of 2,000 pounds, mine run, 67½ cents.

Vein No. 2, per ton of 2,000 pounds, mine run, 71½ cents.

Veins Nos. 1, 1½ and 6, per ton of 2,000 pounds, mine run, 79½ cents.

Crosscuts in entries and rooms $1.60 per yard. Entries driven by hand, $3.25 per yard. In one and one-half vein an additional 25 cents per yard will be paid where rock is to be lifted in foot wall.

Room turning $10.00 per room.

Room necks to be 20 feet in length.

Local Provisions.

Lump coal to be delivered to miners at $2.25 per ton.

Mine run coal delivered to miners at $2.00 per ton.

Washed coal, Nos. 1 and 2, delivered to miners at $1.75 per ton.

There shall be a board at the foot of all entries for the convenience of miners to note material needed at working places.

Where veins Nos. 5 and 6 are worked together as at present, and the intervening parting is less than six inches thick, fifty cents per lineal yard of 24 foot room driven, will be paid in addition to the No. 5 mining rate; entry yard-
4359 age will be paid at the rate of $3.40 per lineal yard; crosscuts will be paid at the rate of $1.70 per lineal yard and room turning will be paid $11.00. Where the intervening rock becomes 6 inches or more in thickness, the local officers and the company officials will fix a rate of compensation, or rock shall be lifted at day rate.

Wheel posts shall be paid for as follows; 25 cents for each post set on side, and 50 cents for each post set in front of track where they have to be moved. Posts to be set in substantial and workmanlike manner. The company shall keep track in condition so that cars will run.

In sections of the mine where tracks are carried on ribs, miners shall be given the option of working in such places or be given a place in other parts of the mine where tracks are in the center of the room.

Timber and caps shall be delivered at a point on the entry within twenty-five feet of each room neck. Timbers to be squared on one end. Present system as to cap pieces to continue.

In all pillar work where track is moved or replaced, it shall be classed as shift work. It is agreed that the miners will lift the last pair of rails and move them back even with the next pair after which their responsibility ceases.

In vein No. 4 crossbars will be paid for as follows;

Eight to 10 inches at small end, $2.50.

Less than 8 inches, small end, $1.50.

In veins Nos. 1, 1½ and 2 cross bars will be paid for as follows;

Eight to 10 inches, at small end, $2.00.

Less than 8 inches at small end, $1.25.

When cross bars are 10 inches or over at the small
4360 end same shall be paid for at the day rate or by special contract.

In veins Nos. 1½ and 2 the following prices will be paid for draw slate or cap rock where same is over 8 inches thick;

From 8 to 12 inches in 30 foot rooms, 50 cents per lineal yard.

From 12 to 18 inches in 30 foot rooms, 80 cents per lineal yard.

From 18 to 24 inches in 30 foot rooms, $1.20 per lineal yard.

From 24 to 30 inches in 30 foot rooms, $1.60 per lineal yard.

From 8 to 12 inches in 20 foot rooms, 40 cents per lineal yard.

From 12 to 18 inches in 20 foot rooms, 60 cents per lineal yard.

From 18 to 24 inches in 20 foot rooms, 90 cents per lineal yard.

From 24 to 30 inches in 20 foot rooms, $1.20 per lineal yard.

When draw slate exceeds 30 inches the place will be considered deficient.

Coalville.

Scale of Mining Rates and Local Provisions.

Pick Mining.

Per ton of 2,000 pounds screened lump, $1.07½.

Entries and entry crosscuts, per yard, $3.00.

Room croscuts, per yard, $1.50.

Room turning $8.00. Room necks to be 10 feet in length.

Loading after shearing machines where miners do the drilling and shooting in entries, room necks and break-
4361 throughs, per ton screened, $1.02½; per yard $1.00.

In rooms sheared by company where miner does the drilling, shooting, timbering and loading, per ton screened lump, $1.00½.

In rooms undercut by company where the miner does the drilling, shooting, timbering and loading, per ton screened lump, 92½ cents.

It is understood that the above prices will not apply to coal mined on the third entries or lower. Should this part of the mine be opened up, prices governing same to be arranged between the company and the local union and district officers.

Coal delivered at Coalville only to employees, $2.50 per ton.

Stockett.

Scale of Mining Rates and Local Provisions.

Section 1. Machine men, 2.05 cents per square foot. Machine helpers, 1.8 cents per square foot for all places over 12 feet wide. Machine men 3.15 cents per square foot and machine helpers 2.55 cents per square foot for all places 12 feet wide and under. In deficient places machine runner and helper to be made up to average day rate for such class of work. The mine committee and pit boss to decide what is a deficient place.

Section 2. Drillers working as partners, price per coal hole 13 cents each; price for sump hole, 33½ cents each; price for lifting bottom holes 33½ cents each. Drillers who are working with helpers, 14½ cents per coal hole and helpers 11½ cents per coal hole. The same conditions to apply to drillers and drill helpers in making up deficient places as

for machine men and helpers. Drillers working as partners, when temporarily drilling rock holes, will be paid the day rate provided for drillers.

Section 3. Loading coal. Dry work 28½ cents and
4362 wet work 29½ cents per ton of 2000 pounds, run of mine. No loader shall load coal in rooms, pillars or entries farther than 10 feet and loaders shall keep all rock 9 feet from the face. Where more than the average quantity of rock exists, the company shall furnish men to clean such places.

Local Provisions.

Ground rent, $8.00 per year.

Lump coal $2.50 per ton delivered.

Lehigh.

Scale of Mining Rates and Local Provisions.

Machine cutting, 12 feet or less, 4 cents per square foot.

Machine cutting over 12 feet wide, 2 cents per square foot.

Loading, shooting, drilling, timbering and track laying;

Wide work, per ton 50 cents.

Narrow work per ton 55½ cents.

Section 1. Two men shall have two working places and where two men have only two entries, and are not turning rooms off same, they shall be allowed other places to load if their entries do not supply them enough coal to load the average turn. Loaders will return to their entries within a reasonable time after the same are shot down.

Section 2. Room crosscuts to be 9 feet wide.

Section 3. Short rails to be furnished each working place.

Section 4. Machine runners to replace all timbers and track where they remove same, provided they shall not be required to move more than three timbers in any one place on any one cutting, and take up bottom coal, if they leave any, provided places cut are normal. It is understood that abnormal places are where rock, bone or sulphur appears in the bottom.

Section 5. Rooms to be 30 feet wide.

4363 Section 6. Machine men shall be furnished tools, such as picks, shovels, machine bits, sand and black oil, to be delivered at the working places of each machine.

Conditions to follow after machines to be taken up locally after mine is developed to an extent that satisfactory arrangements can be made and agreed upon. Tracks to be put in crosscuts between entries every 240 feet.

Sand Coulee.

Scale of Mining Rates and Local Provisions:

Mining Rates.

Section 1. Machine men 2.05 cents per square foot; machine helpers 1.8 cents per square foot; for all places over 12 feet wide. Machine men 3.15 cents per square foot and machine helpers 2.55 cents per square foot for all places 12 feet wide and under. In deficient places machine runners and helpers to be made up to average day rate for such class of work. The mine committee and pit boss to decide what is a deficient place.

Section 2. Drillers working as partners, price for coal hole 13 cents each; price for sump hole 33½ cents each; price for lifting bottom holes 33½ cents each; drillers who are working with helpers, 14½ cents per coal hole and helpers 11½ cents per coal hole. The same conditions applies to drillers and drill helpers, making up deficient places as for machine men and machine helpers. Drillers working as partners, when temporarily drilling rock holes, will be paid the day rate provided for drillers.

Section 3. Loading coal. Dry work 28½ cents and wet work 29½ cents per ton of 2000 pounds, run of mine. No loader shall load coal in rooms, pillars or entries farther than 10 feet, and loaders shall keep all rock 9 feet from the
4364 face; where more than the average quantity of rock exists, the company shall furnish men to clean such places.

Section 4. Pick mining, 80½ cents per ton of 2000 pounds, run of mine.

Section 5. Yardage in entries, $3.00 per yard; crosscuts in entries, $3.00 per yard; crosscuts between rooms $1.50 per yard; room turning $8.00, room necks to be 12 feet in length. All rooms 18 feet or under to be worked single.

Section 6. Where coal is 5 feet or less in height, the same shall be taken up for adjustment and when deficient conditions appear in the bottom it shall be taken up for adjustment also.

Screened coal per ton delivered $2.50.

Ground rent per year $8.00 for all members of the U. M. W. of A., this to apply to employees of the Nelson-Jenks Coal Co., the Gerber Coal Co., or other coal companies that become members of the Montana Coal Operators' Association.

This scale applies to mines operated by members of the Montana Coal Operators' Association.

Tracy.

Lochray Mine.

Scale of Mining Rates and Local Provisions.

Pick mining, 80½ cents per ton of 2000 pounds, run of mine.

Entries and entry crosscuts $3.00 per yard.

Room crosscuts, $1.50 per yard.

Room turning, $8.00 each, room necks to be 12 feet in length.

All rooms 18 feet or under to be worked single.

Screened coal per ton delivered, $2.50.

Ground rent $8.00 per year.

Machine Work.

Machine men, wide work, 2.5 cents per square foot.

4365 Machine helpers, wide work, 2.2 cents per square foot.

Machine men, narrow work, 3.5 cents per square foot.

Machine helpers, narrow work, 3 cents per square foot.

Loading coal, shooting and timbering, wide work, 49 cents per ton of 2000 pounds, run of mine.

Loading coal, and shooting in entries and entry crosscuts, 57½ cents per ton of 2000 pounds, run of mine.

Room necks to be 10 feet, $5.00.

Room crosscuts, per yard, $1.00.

It is understood that this scale of prices is to apply to present conditions. Rooms are to be driven 28 feet wide, two men to have two places in wide work.

Two men to have two entries and crosscuts between them. If these do not provide enough coal to load the average turn they shall be given the last room in the entry.

Ten men are to follow a double shift machine and if ten men are not enough to keep the machine in cutting, the force may be increased by two men at a time, provided the men are given a fair turn. If ten men are too many the force shall be reduced in like manner.

Loaders shall not be compelled to throw their coal more than 15 feet in crosscuts.

Each machine to be furnished with sufficient picks the same to be delivered by the company to the closest working place.

Where coal is 5 feet or less in height, the same shall be taken up for adjustment and when deficient conditions appear in the bottom it shall be taken up for adjustment also.

Sand Coulee.

Brown Mine.

4366 Scale of Mining Rates and Local Provisions.

Machine Work.

Loading coal, shooting and timbering per ton wide work $.49.

Loading coal and shooting in entries and entry crosscuts per ton 57½.

Room necks to be 10 feet 5.00.

Room crosscuts, per yard 1.00.

It is understood that this scale of prices is to apply to present conditions. Rooms are to be driven 28 feet wide, two men to have two places in wide work.

Two men to have two entries and crosscuts between them and if these do not provide enough coal to load the average turn, they shall be given the last room in the entry.

Ten men are to follow a double shift machine and if ten men are not enough to keep the machine in cutting, the force may be increased by two men at a time, provided the men are

given a fair turn. If ten men are too many the force shall be reduced in like manner.

Loaders shall not be compelled to throw their coal more than 15 feet in crosscuts.

Each machine to be furnished with sufficient picks, the same to be delivered by the company at the closest working place.

Where coal is 5 feet or less in height, the same shall be taken up for adjustment and when deficient conditions appear in the bottom, it shall be taken up for adjustment.

In regard to rock coming down over the coal, or where rock comes down that the miner is not responsible for, the same shall be paid for by special agreement with the man or men working in the places and if unable to agree upon a
4367 price for removal of same, either with the individual or pit committee, the company may remove the same by company men, or by paying the miner in said place for the time it takes him to remove said rock. If company decides to remove said rock by company men, they shall have same removed in a reasonable length of time after being notified.

Belt.

Merkle Mine.

Scale of Mining Rates and Local Provisions.

Pick mining, per ton of 2000 pounds, run of mine, $.87½.

Room turning, necks to be 10 feet in length, 8.00.

Entries and entry crosscuts driven by hand, per yard, 3.00.

Room crosscuts, per yard, 1.50.

A place will be considered deficient when the vein is 5 feet or less, or where there are more than 16 inches of rock or bone in the vein.

When it is necessary to dig up the bottom or brush the top to get the required height for cars in working places, the same shall be done by company work, provided no agreement is reached for doing same by contract.

In case a miner or loader is prevented from working by reason of water being in his place, it shall be taken up as provided for in Section 25 of the General Provisions.

All slants, where such are used as haulage ways, shall be paid for the same per yard as entries.

Coal sold to employees at the mine $2.00 per ton.

Bear Creek.

Bear Creek Coal Company's Mine.

Scale of Mining Rates and Local Provisions.

4368 Pick Mining.

No. 1 vein, per ton of 2000 pounds, 85½ cents.

No. 2 vein, per ton of 2000 pounds, 80½ cents.

No. 3 vein, per ton of 2000 pounds, 75½ cents.

No. 4 vein, per ton of 2000 pounds, 90½ cents.

No. 5 vein, per ton of 2000 pounds, 90½ cents.

Entries $3.25 per yard.

Crosscuts (rooms and entries), $1.60 per yard.

Room turning, $8.00 each, room necks to be 12 feet in length.

Scale For No. "Vein Bear Creek Coal Company.

Machine Work—No. 2 Vein.

Section 1. Machine cutting, 12 feet or less, 4½ cents per square foot.

Machine cutting over 12 feet wide, 3 cents per square foot.

Loading, drilling and shooting under 12 feet, 59½ cents per ton.

Loading, drilling and shooting over 12 feet, 53¾ cents per ton.

Machine Work—No. 3 Vein.

Section 1. Machine cutting, 12 feet or less, 4¼ cents per square foot.

Machine cutting, over 12 feet wide, 2¾ cents per square foot.

Loading, drilling and shooting, under 12 feet, 55½ cents per ton.

Loading, drilling and shooting, over 12 feet, 50 cents per ton.

Loading machine slack 50 cents per car.

Section 2. Ten men shall follow a single shift machine, and if ten men are not enough to keep the machine in cutting,

this number may be increased by two men at a time,
4369 provided, the men are given a fair turn. If ten men
are too many, the force shall be reduced in like manner.

Section 3. Two men shall have two working places, and where two men have only two entries, and are not turning rooms off same, they shall be allowed other places to load, if their entries do not supply them enough coal to load the average turn. Loaders will return to their entries within a reasonable time after same are shot down.

Section 4. Room crosscuts shall be three cuts wide, except the last one, which may be two cuts wide. Where the loader has to throw coal more than 25 feet, the company shall place turn rails in such places.

Section 5. Short rails to be furnished each working place.

Section 6. Machine runners to replace all timbers and track, where they remove same, provided they shall not be required to move more than three timbers in any one place on any one cutting, and take up bottom coal if they leave any, provided places cut are normal. It is understood that abnormal places were where rock, bone or sulphur appears in the bottom.

Section 7. In turning rooms where it is impossible for the machine men to cut on the bottom, in making the first run the company shall take up bottom coal.

Section 8. In case of breakdown of machines working single shift, it is understood that machine men will be allowed to make up the time lost with their machines, either on idle days or night shift.

Section 9. When for any abnormal reasons rooms cannot be driven 18 feet or more in width, they may be driven five cuts wide or a minimum of 15 feet, provided that in machine
work, if the loaders are unable to get a fair turn, two
4370 loaders shall be given three such places. Rooms less
than 15 feet in width shall be paid for at narrow work prices.

Brushing.

Six inches to 12 inches per lineal yard, 75 cents.

Twelve inches to 18 inches, per lineal, $1.25.

All brushing in excess of 18 inches to be taken up locally.

This does not include No. 4 vein.

All rooms under 18 feet to be worked single.

Prices for crossbars, in rooms and entries, where necessary, to be settled locally.

Coal to be sold at mines to employees only at $1.75 per ton.

Ground rent 66-2/3 cents per month.

Bear Creek.

International Coal Company's Mine.

Scale of Mining Rates and Local Provisions.

Pick Mining.

No. 1 vein, per ton of 2000 pounds, 85½ cents.

No. 2 vein, per ton of 2000 pounds, 80½ cents.

No. 3 vein, per ton of 2000 pounds, 75½ cents.

No. 4 vein, per ton of 2000 pounds, 90½ cents.

No. 5 vein, per ton of 2000 pounds, 90½ cents.

Entries, $3.25 per yard.

Crosscuts (rooms and entries), $1.60 per yard.

Room turning, $8.00 each, room necks to be 12 feet in length.

Machine Work—Vein No. 3.

Section 1. Machine cutting, 12 feet or less, 4¼ cents per square foot.

Machine Cutting, over 12 feet wide, 2¾ cents per square foot.

Loading, drilling and shooting under 12 feet, 55½ 4371 cents per ton.

Loading, drilling and shooting over 12 feet, 50½ cents per ton.

Loading machine slack, 50 cents per car.

Section 2. Ten men shall follow a single shift machine and if ten men are not enough to keep the machine in cutting this number may be increased by two men at a time, provided, the men be given a fair turn. If ten men are too man, the force shall be reduced in like manner.

Section 3. Two men shall have two working places and where two men have only two entries and are not turning

rooms off same, they shall be allowed other places to load, if their entries do not supply them enough to coal to load the average turn. Loaders will return to their entries within a reasonable time after same are shot down.

Section 4. Room crosscuts shall be three cuts wide except the last run, which may be two cuts wide. Where the loader has to throw coal more than twenty-five feet, the company shall place turn rails in such places.

Section 5. Short rails to be furnished each working place.

Section 6. Machine runners to replace all timbers and track where they remove same, provided they shall not be required to move more than three timbers in any one place, on any one cutting, and take up bottom coal if they leave any, provided places cut are normal. It is understood that abnormal places are where rock, bone or sulphur appear in the bottom.

Section 7. In turning rooms where it is impossible for the machine men to cut on the bottom in making the first run, the company shall take up bottom coal.

Section 8. In case of breakdown of machines working
4372 single shift it is understood that machine men will be allowed to make up the time lost with their machines either on idle days or on night shift.

Section 9. When for any abnormal reason rooms cannot be driven 18 feet or more in width they may be driven five cuts wide or a minimum of 15 feet, provided that, in machine work, if loaders are unable to get a fair turn, two loaders shall be given three such places. Rooms less than 15 feet in width shall be paid for at narrow work prices.

Brushing.

Six inches to 12 inches per lineal yard, 75 cents.

Twelve inches to 18 inches per lineal yard, 1.25.

All brushing in excess of 18 inches to be taken up locally.

This does not include No. 4 vein.

All rooms under 18 feet to be worked single.

Price for crossbars in rooms and entries where necessary to be settled locally.

Coal to be sold at mines to employees only at $1.75 per ton.

Ground rent 66-2/3 cents per month.

Bear Creek.

Smokeless and Sootless Coal Company's Mine.

Scale of Mining Rates and Local Provisions.

Pick Mining.

No. 1 vein, per ton of 2000 pounds, 85½ cents.

No. 2 vein, per ton of 2000 pounds, 80½ cents.

No. 3 vein, per ton of 2000 pounds, 75½ cents.

Entries $3.75 per yard.

Crosscuts (rooms and entries), $1.60 per yard.

Room turning, $8.00 each, room necks to be 12 feet in length.

Machine Work—No. 3 Vein.

4373 Section 1. Machine cutting, 12 feet or less, 4¼¢ per square foot.

Machine cutting over 12 feet wide 2¾¢ per square foot.

Loading, drilling and shooting under 12 feet, 55½¢ per ton.

Loading, drilling and shooting over 12 feet 50¢ per ton.

Loading machine slack, 50¢ per car.

Section 2. Ten men shall follow a single shift machine, and if ten men are not enough to keep the machine in cutting, this number may be increased by two men anytime, provided the men are given a fair turn. If ten men are too many, the force shall be reduced in like manner.

Section 3. Two men shall have two working places, and where two men have only two entries, and are not turning the rooms off same, they shall be allowed other places to load, if their entries do not supply them enough coal to load an average turn. Loaders will return to their entries, within a reasonable time after the same are shot down.

Section 4. Room cross-cuts shall be three cuts wide except the last one, which may be two cuts wide. Where the loader has to throw coal more than 25 feet, the company shall place turn rails in such places.

Section 5. Short rails to be furnished each working place.

Section 6. Machine runners to replace all timbers and track where they remove same, provided they shall not be required to remove more than three timbers in more than one

place in any one cutting, and take up bottom coal if they leave any provided places cut are normal. It is understood that abnormal places are where rocks, bone or sulphur appear in the bottom.

Section 7. In turning rooms where it is impossible for machine men to cut on the bottom in making the first run, 4374 the company shall take up bottom coal.

Section 8. In case of breakdown of machines working single shift it is understood that machine men will be allowed to make up the time lost with their machines either on idle days or on night shift.

Section 9. When for any abnormal reason rooms cannot be driven 18 feet or more in width they may be driven five cuts wide or a minimum of 15 feet, provided that, in machine work, if loaders are unable to get a fair turn, two loaders shall be given three such places. Rooms less than 15 feet in width shall be paid for at narrow work prices.

Brushing.

Six inches to 12 inches per lineal yard, 75 cents.

Twelve inches to 18 inches per lineal yard, $1.25.

All brushing in excess of 18 inches per lineal yard, $1.25.

All brushing in excess of 18 inches to be taken up locally.

All rooms under 18 feet to be worked single.

Prices for crossbars in rooms and entries where necessary, to be settled locally. Coal to be sold at mines to employees only at $1.75 per ton.

Ground rent 66-2/3 cents per month.

Bear Creek.

Montana Coal and Iron Company's Mine.

Scale of Mining Rates and Local Provisions.

Pick Mining.

No. 1 vein, per ton of 2000 pounds, 85½ cents.

No. 2 vein, per ton of 2000 pounds, 80½ cents.

No. 3 vein, per ton of 2000 pounds, 75½ cents.

Entries $3.25 per yard.

Crosscuts (rooms and entries), $1.60 per yard.

4375 Room turning $8.00 each, room necks to be 15 feet in length.

Machine Work—No. 2 Vein.

Section 1. Machine cutting 12 feet or less 4½ cents per square foot.

Machine cutting over 12 feet wide, 3 cents per square foot.

Loading, drilling and shooting under 12 feet, 59½ cents per ton.

Loading, drilling and shooting over 12 feet, 53¾ cents per ton.

Machine Work—No. 3 Vein.

Section 1. Machine cutting 12 feet or less 4¼ cents per square foot.

Machine cutting over 12 feet wide 2¾ cents per square foot.

Loading, drilling and shooting under 12 feet 55½ cents per ton.

Loading, drilling and shooting over 12 feet, 50 cents per ton.

Loading machine slack, 50 cents per car.

Section 2. Ten men shall follow a single shift machine and if ten men are not enough to keep the machine in cutting, this number may be increased by two men at a time, provided the men are given a fair turn. If ten men are too many the force shall be reduced in like manner.

Section 3. Two men shall have two working places and where two men have only two entries and are not turning rooms off same, they shall be allowed other places to load if their entries do not supply them enough coal to load the average turn. Loaders will return to their entries within a reasonable time after same are shot down.

Section 4. Room crosscuts shall be three cuts wide except the last run which may be two cuts wide. Where the
4376 loader has to throw coal more than 25 feet the company shall place turn rails in such places.

Section 5. Short rails to be furnished each working place.

Section 6. Machine runners to replace all timbers and tracks where they remove same, provided they shall not be

required to move more than three timbers in any one place on any one cutting and take up bottom coal if they leave any, provided places cut are normal. It is understood that abnormal places were where rock, bone or sulphur appears in the bottom.

Section 7. In turning rooms, where it is impossible for machine men to cut on the bottom, in making the first run, the company shall take up bottom coal.

Section 8. In case of breakdown of machine working single shift it is understood that machine men will be allowed to make up the time lost with their machine either on idle days or night shift.

Section 9. When for any abnormal reason rooms cannot be driven 18 feet or more in width, they may be driven five cuts wide or a minimum of 15 feet, provided that, in machine work, if loaders are unable to get a fair turn, two loaders shall be given three such places. Rooms less than 15 feet in width shall be paid for at narrow work prices.

Brushing.

Six to 12 inches per lineal yard, 75 cents.

Twelve to 18 inches per lineal yard, $1.25.

All brushing in excess of 18 inches to be taken up locally.

All rooms under 18 feet to be worked single.

Prices for crossbars in rooms and entries, where necessary, to be settled locally.

Coal to be sold to employees only at $1.75 per ton.

4377 Ground rent 66-2/3 cents per month.

Washoe.

Scale of Mining Rates and Local Provisions.

Pick Mining.

No. 1 vein per ton of 2000 pounds, 85½ cents.

No. 2 vein per ton of 2000 pounds, 80½ cents.

No. 3 vein per ton of 2000 pounds, 75½ cents.

Entries $3.25 per yard.

Crosscuts (rooms and entries), $1.60 per yard.

Room turning $8.00 each (room necks to be 18 feet in length)

Room necks in No. 3 vein to be 15 feet in length.

Machine Work—No. 3 Vein.

Narrow Work.

Machine cutting 12 feet or less 4½ cents per square foot.

Loading, drilling and shooting under 12 feet 55½ cents per ton.

Conditions following after the machines in the No. 3 vein in the rest of the Bear Creek field, in entries, shall apply to the No. 3 vein at the Anaconda Copper Company mine at Washoe.

Section 11. In case the company decides to use machine cutting pillars, it is understood that machine men shall have the same working face as in rooms.

Local Provisions.

Where vein is less than five feet thick, it shall be taken up as provided for in Section 24, General Provisions.

Forked coal delivered in camp to employees only, at $2.75 per ton.

Head bottom cager, $3.94 per day.

Roundup.

Roundup Coal Mining Company's No. 3 Mine.

4378 Scale of Mining Rates and Local Provisions.

Pick Mining.

75½ cents per ton of 2000 pounds, run of mine.

Entry and entry crosscuts, $3.25 per yard.

Room crosscuts, $1.60 per yard.

Room turning $8.00, room becks to be 16 feet in length.

Machine Work.

Section 1. Machine cutting for 12 feet or less 3¾ cents per square foot.

Machine cutting over 12 feet 1¼ cents per square foot.

or loading, shooting and drilling for 12 feet or less, 62½ cents per ton.

Loading, shooting and drilling over 12 feet, 59 cents per ton.

Section 2. Twenty men shall follow a single shift machine and if twenty men are not enough to keep the machine in cutting this number may be increased by two men at a time, provided the men are given a fair turn. If twenty men are too many the force shall be reduced in like manner.

Section 3. Two men shall have two working places, and where two men have only two entries, and are not turning rooms off same, they shall be allowed other places to load, if their entries do not supply them enough coal to load the overage turn. Loaders will return to their entries within a reasonable time after same are shot down.

Section 4. Room crosscuts shall be three cuts wide, except the last run, which may be two cuts wide. Where the loader has to throw coal more than 25 feet, the company shall place turns rails in such places.

Section 5. Short rails to be furnished each working
4379 place.

Section 6. Machine runners to replace all timbers and tracks where they remove same, provided they shall not be required to move more than three timbers at any one place on any one cutting, and take up bottom coal if they leave any, provided places cut are normal. It is understood that abnormal places are where rock, bone or sulphur appears in the bottom.

Section 7. In turning rooms, where it is impossible for machine men to cut on the bottom in making the first run, the company shall take up bottom coal.

Section 8. In cases of breakdown in machines working single shift, it is understood that machine men will be allowed to make up the time lost with their machines either on idle days or night shift.

Section 9. Where rooms are driven narrower than normal width, if the loaders are unable to get a fair turn, each two loaders shall be given an extra place.

Local Provisions.

Where vein is less than 5 feet thick it shall be taken up as provided for in Section 24, General Provisions.

Great Falls, Montana, September 28th, 1916.

It is hereby agreed between the Montana Coal Operators' Association and the United Mine Workers of America, District No. 27, that the foregoing scale of prices and the foregoing rules and provisions shall be in effect for two years commencing October 1st, 1916 and terminating September 30th, 1918.

And it is further agreed that the parties to this contract shall meet at a place and time to be decided by the Joint Executive Board for the purpose of formulating another agreement.

This agreement applies only to mines being operated in the State of Montana.

4380 On Behalf of the Montana Coal Operators' Association.

F. W. C. WHYTE,
President.
M. F. PURCELL,
Secretary.

On behalf of the United Mine Workers of America,

GEO. LODGE,
District 27 - President.
ROBERT CONDON,
District 27 - Secretary.

On behalf of the Scale Committee,

GEO. LODGE.
PETER HENRETTY.
ROBERT CONDON.
ADAM WILKINSON.
STEPHEN ELY.
JAMES NEEDHAM.
JAMES PEARSON.
C. C. ANDERSEN.
F. W. C. WHYTE.
M. F PURCELL.

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4381 Mr. McDonough (reading):

"Cross-Examination

By J. B. McDonough.

Q. Mr. Purcell, I will ask you if you have a copy of the agreements entered into between the coal operators of Montana and the United Mine Workers beginning October 1, 1914

and ending September 30, 1916, and if so to attach a copy of that as Exhibit "B" to your deposition?

A. I will do so.

Q. I ask you also to attach as Exhibit "C" to your deposition the agreement between the Montana Coal Operators Association and the United Mine Workers of America, District 27, Montana, commencing October 1, 1916, and ending September 30, 1918? A. I will do so.

Q. In your direct examination you stated that you were an organizer for the United Mine Workers, I would ask you to state again when you were first employed by the United Mine Workers as their organizer? A. April 1, 1911.

Q. Where did you live at that time?

A. Stockett, Montana.

Q. In what part of Montana is Stockett?

A. Northwest.

Q. Is that in the coal region? A. Yes, sir.

Q. What is your age now, Mr. Purcell?

A. 50 years.

Q. Did you ever work in the coal mines yourself?

A. I did.

Q. When?

A. The last period I worked was from 1904 to 1906.

Q. What kind of work did you do?

A. I was classed as timber man.

Q. That was in 1904?

A. From July 1904 to September 1906.

Q. What company was you working for?

4382 A. The Cotton Wood Coal Company.

Q. At what place? A. Stockett, Montana.

Q. Did you ever have any experience in digging coal?

A. I did.

Q. Was that before 1904? A. Before 1904.

Q. Where did you have experience in digging?

A. I ran a machine at Stockett from 1899 to 1903.

Q. You ran a machine? A. Yes, sir.

Q. What kind of a machine?

A. A drilling machine; prior to that time I was track layer at Belt, Montana for three years; prior to that I dug coal for a year. Prior to that time I mined coal in Scranton, Pa., for about two years.

Q. Are you a native of Pennsylvania? A. Yes, sir.

Q. What age were you when you left Pennsylvania?

A. About 27 years.

Q. About how many years experience did you have in coal business in Pennsylvania?

A. Well, I worked in periods in Pennsylvania. I started in the coal breakers in Pennsylvania picking slate before I was eight years of age, and continued in there until I was thirteen. After which I left and was employed in the Iron Mills and from that to the Steel Works; from there I returned to the mines and went loading coal in Scranton, Pa., From there I went to New York City and worked for two months on the Cruiser Mine Engin in Quintard Ship Yards; from there back to Scranton, Pa., and was employed again in the mines; from there I went to Maryland and was employed in the steel industry in Maryland; from there I come back again to Scranton and was again employed in the mines of Scranton and Luzerne; from Luzerne I returned again to Scranton, and then from there I came to Montana. Since that time my resi-
4383 dence has been in Montana.

Q. During the time that you were in the coal business or coal work in Pennsylvania, were you at any time there a member the United Mine Workers of America.

A. No, there was no organization of the Mine Workers there at that time.

Q. When did your first experience with the United Mine Workers begin? A. In 1905.

Q. And in the state of Montana?

A. In the state of Montana.

Q. When you first came to the state of Montana were the miners already organized into the association known as the United Mine Workers of America?

A. No, they were organized under the Federation of Miners.

Q. Was that organization in existence when you came to Montana? A. Yes, sir.

Q. Were all of the mines in Montana at the time you came here being operated under union conditions with the Western Federation of Miners?

A. That I am not in a position to say, a majority of them were, but I don't know if all were, but there was no contracts made between the Western Federation of Miners and Mine Owners as organizations.

Q. State if you can, Mr. Purcell, about how much coal was being produced annually when you first came to Montana, in the state of Montana?

A. Well, I couldnt do that without getting records in regard to the output of coal.

Q. Could you name from memory, approximately, the number of coal fields that were in the state of Montana that were being operated at that time?

A. Yes, sir, there was the Red Lodge, Belt, Sand Coulse, and Hoar.

4384 Q. Are those the names of the Districts?

A. They are names of mines in operation.

Q. Are those mines still in existence now?

A. No, Hoar is not.

Q. I wish you would name as nearly as you can the mines that are now in operation?

A. Do you mean those beside those I have mentioned?

Q. All together?

A. Do you want them named separately, or fields?

Q. Fields are sufficient?

A. There is the Bear Creek operating five mines—

Q. I may be able to make this more brief by asking if all fields are shown in last contract? A. Yes, sir.

Q. Then, I wish you would state as near as you can, the amount of coal being mined annually now from all the mines commencing with the output of 1916?

A. Three million, six hundred and some odd thousand tons.

Q. Where is that consumed?

A. About 60% by the railroads.

Q. Does it go outside of the state of Montana, any part of it that goes to the railroads? A. For the railroads?

Q. Yes, sir.

A. They consume some of it outside the state but not a great portion.

Q. How much of the amount of coal mined in the state of Montana is shipped and used outside of the state of Montana, that is shipped outside of the state and used outside of the state?

A. That is very hard to answer for the reason that the portion that goes out of the state is very small, for the reason that the state itself does not produce coal enough for the consumption of the state, rather than shipping coal out of the

4385 state it requires a million tons a year to be shipped into the state for its own consumption.

Q. From what fields does the coal come that is shipped into Montana?

A. From Northern Wyoming, Southern Wyoming and a small portion from Utah.

Q. Can you name the mining districts in Wyoming and Utah from which it generally comes?

A. I can't name them in Utah, the shipments from Wyoming come from Diamondville and what is called the Sheridan field in Northern Wyoming, in which there are a number of mines.

Q. Are there any open shop or non union mines in the state of Montana at this time?

A. In the state of Montana they are all considered open shop mines. The operators of Montana have never recognized the question of closed shop in the state of Montana. While their agreements to a certain recognize the employment of members of the miners organization, yet they have never recognized the question of it being a closed shop.

Q. You give it then as your view that all the mines of Montana including those making these contracts which are introduced in evidence, are upon the principle of the open shop?

A. Yes, sir.

Q. Are there any operators in the state of Montana who are not operating under this contract?

A. There [—] a number of operators in this state who do not belong to the operators association, yet, they are governed by practically the same terms as are covered in this agreement.

Q. Could you make an estimate of the proportion of coal mined by those operators who have not signed up under that agreement, and who do not belong to the Montana Operators Association?

A. I could not, as there are a number of small opera-
4386 tors who I am not familiar with in this state, do not know what their output is, and for that reason I couldnt say what the percentage is.

Q. Have you ever yourself operated a mine?

A. I never have.

Q. Have you had any actual experience in any other states other than Pennsylvania and Montana?

A. I have never worked in mines in other states except Pennsylvania and Montana.

Q. Mr. Purcell, state whether the mines in Wyoming are operated under an agreement with the United Mine Workers of America?

A. They are.

Q. Are all of the mines, practically all I mean, in the state of Wyoming operated under an agreement with the United Mine Workers of America? A. They are.

Q. Are there any mines in the state of Idaho that ship coal from that state into Montana? A. None.

Q. Does any of the coal from the eastern mines, such as those in Pennsylvania and W. Virginia, come into the state of Montana?

A. For sale on the market?

Q. For sale and consumption in Montana?

A. The railroads use a little Anthracite for their stoves on trains, but outside of that I don't know of any coal coming from those states.

Q. You know of no coal then being used generally by industrial places in this state that come from Pennsylvania fields or the West Virginia fields? A. None.

Q. Does any of the coal from the state of Washington come into the state of Montana for sale and use?

A. That is pretty hard to say for this reason, the Northern Pacific railroad operates mines in Washington and
4387 some times they ship their coal a considerable distance into Montana, and other times they use it all on the western end of the road and don't get it here, but generally they have a certain part of the road in Montana they furnish with their coal from the west.

Q. What kind of coal is mined in the state of Montana?

A. Well, there are different kinds. There is what is called bituminous, semi-bituminous and lignite.

Q. Which is the larger quantity?

A. Well, I think what they call the semi-bituminous is the largest."

Mr. McDonough: I don't believe I want to read all of that, I read to the last question,—I believe I will have to read it, but I hate to take the time. (resumes reading):

"Q. Generally speaking, what is the thickness of the veins in the state of Montana?

A. Well, they vary in the different fields. In the Round Up field they run between 5 and 6 ft; in what they call the Sand Coulse field it runs from 4½ to 9 ft; in the Bear Creek field there are six different veins of coal that are known [as] the present time, three of those are all in operation at the present time, they vary from 4 to 9 feet. Red Lodge field they vary from 4 to 9 feet.

Q. Are the mines operated on the room and pillar plan?

A. Yes, sir.

Q. In your direct examination you stated that you had had something to do, or had been in the British Columbia mines, do you know whether any coal is mined in British Columbia and sold for use in the markets of Montana?

A. The same thing applies to British Columbia as applies to Washington and Montana. The Great Northern Railroad Company have mines in Crows Nest, British Columbia,
4388 and they use for their road nearly all the coal that is produced from those mines, and at certain times it is shipped quite a distance in the state of Montana and used on

the railroad, but for commercial purposes, I don't think there is any British Columbia coal coming into the market.

Q. Where are the Crows Nest mines?

A. The town is called Coal Creek, their shipping point is Fernie.

Q. How far from the line of the state of Montana on the North are the mines located?

A. You mean the shipping point or the mine proper?

Q. I mean the mine proper, I want the location of the mines?

A. I think they are about 100 miles from the northwest corner.

Q. Do you know of any mines operated at or near Vancouver?

A. Yes, sir.

Q. State whether or not the mines located at Crows Nest, and neighborhood, are operated under an agreement with the United Mine Workers, or otherwise?

A. They are, or were, operated under an agreement with the United Mine Workers. Whether they are at the present time I can't say, for they had some trouble there during the past winter and I don't know if it has been straightened out.

Q. Mr. Purcell, state as near as you can about when the Crows Nest mines were unionized?

A. I think it was in the year 1905, wouldn't say for sure but think that—no, wait a minute—they were organized prior to 1904. They were organized in 1903.

Q. Did you personally have anything to do with the organization? A. No.

Q. Do you know who did? A. Yes.

Q. Who? A. Thomas Burk.

4389 Q. Where does he live?

A. Nowhere now, he is dead. He was then National Board Member for Illinois, District No. 12.

Q. How long was he engaged in the unionizing of those mines?

A. Probably a month or six weeks.

Q. Did the United Mine Workers have any local there prior to the time he went there? A. Not that I know of.

Q. What amount of coal was being mined there, approximately, before the unionizing of the mine? A. I can't say.

Q. Where was the coal being shipped to?

A. It was the same way practically as now, it was a Great Northern subsidiary that owned and controlled the output and it was handled through the railroad and by coking a certain percentage and shipping it to smelters in different portions of the country.

Q. When were the mines unionized located near Sheridan?
A. In 1903.
Q. Where was the coal being shipped prior to the unionizing of those mines?
A. Into Sheridan, and some sold to the Burlington railroad, some shipped into this state, what proportion I can't say.
Q. Do you know about what the production was at the time the unionizing took place?
A. The production was small, because only one mine was operated. Since that time there have been a number of mines at surrounding places that have been operated and developed.
Q. As to the other mines in Wyoming, when were they unionized?
A. As soon as there was a sufficient number of men at each mine to organize a local union.
Q. When were the mines unionized in the state of Washington?
A. 1903.
4390 Q. Do you know when they were unionized in Idaho?
A. In Idaho the coal output there is very little and I don't know whether they have any organization there at all.
Q. Do you know the output last year from general information, from the state of Washington?
A. No, not offhand, I have government reports.
Q. State if it is larger or smaller than Montana?
A. Larger.
Q. Is it the same character of coal as that of Montana, generally?
A. Some a little better quality and some is inferior to certain portions of Montana.
Q. You acted for how many years as organizer?
A. One year.
Q. What were your duties as organizer?
A. The duties of an organizer generally are to go into fields where men are not organized and organize. While I was an organizer I acted as a representative of the International President of the United Mine Workers in Washington, settling disputes. When the Commissioner and the District President of the United Mine Workers disagreed on cases they were referred to me for a settlement and I settled those cases.
Q. You did not, then, as I understand you, actually organize any locals yourself? A. No.
Q. Have there ever been any strikes in the state of Montana?

A. There has been local strikes, never a general one."

* * * * * * *

"Q. In other words, I understand you to mean, that the United Mine Workers do not concede that the more favorable conditions, if there be such, in the operation of mines in other states should have anything to do with the making
4391 of agreements for the operation of the coal mines in the state of Montana?

A. That is true. I don't mean that the officers of the organization at times do not recognize those competitive conditions should be considered in the making of wage scales, but the general membership sometimes do not take those things into consideration.

Q. If it should be true that the wage scale at the mines in the other states which are competitive with the mines of Montana was lower, would not that tend to drive out of business the mines in the state of Montana?

A. To a certain extent, yes, but along with that they would have to take into consideration the question of freight rates, that would have to be applied to their coal in shipping it into the state of Montana.

Q. Then, if I understand your other answers, it is that the United Mine Workers take the position in the conferences in which these contracts are made that even though the wages in the mines in other states which are competitive to the mines in this state should be lower, yet they should have the same high wages in this state, although it might result in fewer days of work?

[Q.] The conference committee do not contend for this but some times there are large numbers of workmen that don't pay any attention, but the officers generally try to fix their rates, or establish rates of wages which they believe will give the operators in their own state a chance to retain their own markets.

Q. The union miner is interested in the market being retained?

A. Quite true, but as you will understand, there are a large number of the miners who are ignorant of the conditions that exist in their own state or the conditions that exist in surrounding states, or in regard to the conditions
4392 under which the operators have to sell their coal.

Q. Do not then the officials of the union, in making these contracts give consideration to whatever favorable conditions, if there are such in mines in other states so that the contract is made in this state so that the mines in other states may not drive Montana mines out of business?

A. They do, yes, sir.
Q. Wage conditions are thus considered in other states, favorable mining conditions are considered and all other matters that relate to the cost of production of coal?
A. Yes."

Mr. McDonough: We will omit the rest of the cross-examination.

Mr. Covington: Omit the redirect examination.

4393 WILLIAM S. WELLSHEAR, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Grant:
Q. You are the clerk of the United States District Court of the Western District of Arkansas, Fort Smith Division?
A. Yes, sir.
Q. Were you the clerk of this court on the date the original complaint was filed in the cause or action now being tried in this court? A. I was.
Q. On what date was the original complaint filed?
A. On September 1, 1914.
Q. Was summons issued on that complaint? A. It was.
Q. On what date was the first original summons issued?
A. On the same date.

Witness excused.

4394 MISS ORELIA JENNINGS, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. Orelia Jennings.
Q. Where do you live? A. Hartford.
Q. Did you live in Hartford in July, 1914? A. Yes, sir.
Q. What occupation did you have at that time, what kind of work were you doing? A. Telephone operator.
Q. Telephone operator? A. Yes, sir.
Q. Were you in Hartford on the 17th of July, 1914?
A. Yes, sir.
Q. Did you see James Slankard there on that day?
A. Yes, sir, I remember seeing him about one o'clock.
Q. About one o'clock? A. Yes, sir.
Q. Where? A. You say where?

Q. Yes, ma'am; do you remember?

A. Yes, sir, I was coming out of where I have a room; I was coming out, going back to work; I believe it was about one o'clock, and I met him on the sidewalk, just as I came out my gate.

Q. Was there any reason why you remember seeing him there on that occasion, any other reason?

A. There had [—] quite a few local calls for him that morning, and several asking if I knew where he was, and when I saw him I just wondered if he had answered his calls, or wondered why he was not out that morning on duty.

Q. Had you heard anything of the trouble at Prairie Creek at that time? A. Yes, sir.

4395 Q. Was there anything else that occurred there that morning that called your attention to the fact?

A. He just came in about five feet of me, and turned out in the street, and there was a drunk man out there, and he taken charge of the drunk man and took him off toward jail.

Cross-Examination

By Mr. Hull:

Q. Miss Jennings, what day was this? A. July 17th.

Q. How do you happen to remember that day?

A. How do I happen to?

Q. Yes.

A. I was telephone operator, and so I heard of the trouble out there, and I remember it very well, I was awful busy that day, unusually busy at the office.

Q. Were you operator on the 6th of April?

A. Yes, sir.

Q. Did you see Jim Slankard on that day?

A. I don't remember of seeing him that day.

Q. Do you remember seeing him the day after that?

A. No, sir, I don't remember.

Q. Did you see him the day before that?

A. I couldn't say, I saw him most every day.

Q. You saw him most every day?

A. Yes, sir, he lived there in town, and I saw him most every day.

Q. Did you testify at Greenwood at James Slankard's trial, when he was tried for murder? A. No, sir.

Q. You did not? A. No, sir.

Q. Did you know who did testify in his behalf there?

A. No, I do not.

Q. You don't know then that the witnesses,—where the witnesses said he was?

A. No, I don't know a thing about that.

Q. When did you first discuss with anyone your
4396 having seen him at one o'clock on July 17th?
A. I have not talked to anyone about it.
Q. Have not talked to counsel for defendants?
A. No, sir.
Q. Have not talked to Jim Slankard? A. No, sir.
Q. Not since July 17th, 1914?
A. Oh, yes, I have talked to him, but I don't remember talking to him on that subject.
Q. You don't remember telling Jim Slankard that you saw him at one o'clock that day? A. No.
Q. And as far as you remember, you never told anyone about having seen him at one o'clock on July 17th, 1914?
A. I don't remember of discussing it with anyone.
Q. What were the conditions in Hartford that morning when, you went on duty at 7:30? A. Yes, sir.
Q. You testified in the contempt proceedings, did you?
A. Yes, sir.
Q. It was the talk of the town, was it, that they were over cleaning up No. 4? A. Yes, sir.
Q. That was the talk of the town before you went off duty on the 16th, was it?
A. Yes, sir, I heard a little bit of talk about it.
Q. When did you go off duty on the day before?
A. 5:30 in the afternoon.
Q. And you testified in the contempt proceeding that it was the talk of the town that they were over cleaning up No. 4 mine, before you went off duty on the 16th, did you?
A. I don't remember exactly.
Q. Was that a fact, was it the talk of the town that everyone was over cleaning up No. 4 before you went off duty?
A. I just heard there was trouble out there, I don't
4397 know about them cleaning it up.
Q. You don't remember you testified to that effect?
A. No, I don't remember.
Q. In the contempt proceedings?
A. I don't remember it.
Q. Do you remember telephoning,—do you know Mrs. Elmer Bohannan? A. Yes, sir.
Q. Do you remember telephoning her on Thursday night, before the battle, telling her something was going to happen, and she had better get away, and not be there near No. 4 the next morning?
A. No, sir, I did not; she didn't have any phone at that time that I remember of.
Q. You don't remember getting any word to Mrs. Bohannan? A. No, sir, I was not [—] duty.

Q. You were on duty until 5:30 the night before?
A. Yes, sir.
Q. You don't remember telephoning to her?
A. No, sir, I did not do that.
Q. Or getting word to her that something was going to happen the next day?
A. No, sir, I didn't do that, I know.

Redirect Examination

By Mr. Covington:
Q. By way of refreshing your memory, did you not ask Slankard if he was an officer, and why he was not out to No. 4, you understood they were fighting out there?
A. No, sir, I didn't ask him any questions.

Witness Excused.

The Court: We will take our usual recess.

(A recess was here taken of five minutes.)

4398 MRS. LEON GREEN, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:
Q. State your name. A. Mrs. Leon Green.
Q. Where do you live? A. At Hartford.
Q. Did you live in Hartford in 1914? A. Yes.
Q. What business were you engaged in in July, on the 17th of July, 1914?
A. I was working at the post office.
Q. Did you see James Slankard that day at any time during the day? A. Yes, sir.
Q. About when did you see him?
A. Well, it was about one o'clock, along about one o'clock, —between twelve and one o'clock.
Q. Where was he? A. He passed the post office.
Q. Was that all that called your attention to him, just his passing the post office, or did anything else occur?
A. Well, I spoke to him as he passed, and I wondered why he was not at the trouble. I knew there was trouble at No. 4 and I wondered why he was not out there, he being an officer.
Q. Did you see him arrest someone on the street at that time? A. Yes.
Q. An intoxicated person? A. Yes.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. Hull:

Q. How do you happen to remember it was one o'clock?

A. It was at the post office alone then. The other post master had gone to dinner, and she went from twelve to one.

4399 Q. And came back at one?

A. Yes, sir, along about that time.

Q. About how long after the postmaster had gone did you see James Slankard?

A. Well, it was, I guess, about an hour or something like that.

Q. The postmaster came back pretty soon?

A. He was sick at the time, but there was a girl working there then and she came back about that time.

Q. Did you see James Slankard on the 6th of April?

A. I dont think I did. I dont remember if I did.

Q. You remember that was the day of the big demonstration over there, had at the Prairie Creek school house, you remember that, dont you?

A. Yes, but I dont remember seeing him that day.

Q. Did you testify at Jim Slankard's trial at Greenwood?

A. No, sir.

Q. Did you ever tell Jim Slankard that you saw him on the street on the 17th of July, 1914? A. No, sir.

Q. Did you ever tell counsel for defendants in this case that you saw him? A. No, sir.

Q. You never talked to them about it? A. No, sir.

Q. You knew that Jim Slankard was accused of murdering some men over there at Prairie Creek?

A. I have heard it talked of, yes, sir.

Q. You heard about it, you say?

A. Yes, sir, I have heard talk about it.

Q. Did you hear about it before he was tried or afterwards? A. Well, I dont remember.

Q. Did you go to Greenwood to testify? A. No, sir.

Q. You were not asked to go? A. No, sir.

4400 Q. You know Jim Slankard pretty well, dont you?

A. Yes.

Q. You have known him a good many years?

A. Yes, sir, several years.

Q. Do you remember who this man was he arrested?

A. No, sir, I dont. I didnt know him at the time. He was a stranger.

Q. Did you see B. Trout in Hartford that day?

A. I dont remember of seeing him.

Q. Did you see Valentine Barillo in Hartford that day about one o'clock? A. I dont know him.
Q. You do not know Valentine Barillo? A. No.
Q. Do you know Charley Blackburn? A. Yes, sir.
Q. Did you see him in Hartford that day?
A. I dont remember,—which one do you mean, the young man or the old man?
Q. The young one? A. Yes, I think I saw him.
Q. Do you know Omar Baker? A. Yes.
Q. He was Jim Slankard's deputy? A. I dont know.
Q. Was he a deputy constable or a deputy sheriff?
A. I think he was an officer.
Q. Did you see him that day in Hartford?
A. I dont remember that I did.
Q. Did you see Jim McNamara there that day?
A. I dont remember.
Q. If you had seen Jim McNamara there that day, you would have remembered it because you would have wondered why he was not out at the trouble?
A. He was not an officer, was he?
Q. Wasnt he an officer of the local? A. I dont know.
Q. He was pretty active in union affairs in Hartford, wasnt he? A. I dont know whether he was or not.
4401
Q. Where were you on the 16th of July, the night before the battle? A. I suppose I was home then.
Q. How late did you work at the postoffice that night?
A. The train goes at 6:45 and as soon as we put the mail up, we went home.
Q. You did not see anything unusual on the streets of Hartford Thursday night, the night before the battle?
A. No, sir.
Q. Did you see any men with guns or any unusual crowds on the street that night? A. No, sir.
Q. When did you first hear the noise of the battle?
A. I dont remember.
Q. You dont remember? A. No.
Q. Did you see anything unusual on the streets of Hartford on the day of the battle?
A. Well, no, nothing unusual, only a large crowd of people.
Q. Did you see any men with guns?
A. No, sir, I did not.
Q. You cant remember when you first heard the battle was going on? A. No, sir.
Q. Can you give any idea? That was an usual thing to have happened over there, wasnt it? A. Yes.

Q. Well, give us some idea of when you first heard the battle was going on? Was the battle over before you heard about it, or did you hear about it before it was over?

A. I heard different ones talking about the fight out there and things like that, but I dont remember exactly.

Q. Give us some idea when it was, in the morning or in the afternoon?

A. Well, I think it was,—it seems to me it was in the morning.

4402 Q. What did you hear about it?

A. Well, I didnt hear anything only they had trouble out there and there was fires and things like that.

Q. Have you talked to the last witness, Miss Jennings, about your testimony at all? A. No.

Q. And she did not talk to you about hers? A. No.

Q. You did not know, before she went on the stand, what she was going to say? A. No.

Q. And you did not know where she had seen him or where? A. No, sir.

Q. As far as you know she did not know where you had seen him or when? A. No.

Mr. Hull: That is all.

Redirect Examination

By Mr. Covington:

Q. You have told just what you know about this matter, have you, Mrs. Green? A. Yes.

Witness Excused.

4403 KERT THOMPSON, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. State your name. A. Kert Thompson.

Q. What is your business? A. Barber.

Q. Where were you working in July, 1914?

A. At Hartford.

Q. Do you remember the day of the battle at Prairie Creek, on the 17th of July, 1914? A. Yes, sir.

Q. Did you see Jim Slankard that day at any time?

A. Yes, sir.

Q. State to the jury when you saw him and under what circumstances?

A. It was along about noon, just about twelve o'clock. I shaved him about twelve o'clock. Just about twelve, it might have been a few minutes before or after twelve.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. Hull:

Q. What makes you remember it was about noon?

A. Because I was working by myself and I complained about being hungry and had no way of going to dinner, because I had two other fellows with me and they both were laying off.

Q. Were you always left alone at noon?

A. Not always.

Q. Was that the only day that thing happened?

A. That is all I remember anything about, because the two boys always stayed there.

Q. And July 17th, 1914, was the only day that you remember anything about? A. Yes.

Q. Why do you remember that day?

4404 A. Well, there was one boy went to a picnic.

Q. What picnic? A. At Mansfield.

Q. That was on the same day? A. Yes.

Q. One of your men went to the Mansfield picnic?

A. Yes.

Q. Where did the other man go?

A. He was sick. He was teed up a little.

Q. Who were those men?

A. Omar Looper and Charley Browning.

Q. Did you see Jim Slankard on the 6th of April?

A. I dont remember.

Q. You remember the day of the riot at Prairie Creek?

A. You mean out there in July?

Q. No, April 6?

A. I dont remember whether I seen him that day or not.

Q. You do not know?

A. No, I dont remember anything about that day.

Q. Have you ever told Jim Slankerd that you saw him that day, and talked it over with him?

A. Have I seen him how?

Q. Have you ever told Jim Slankard that you remembered seeing him that day, or ever talked with him about it?

A. Yes.

Q. When did you first talk to him about it?

A. Two or three days afterwards when I heard he was arrested and we talked about it.

Q. You testified at Greenwood? A. Yes.
Q. Do you remember who else testified to this alibi?
A. No, sir; I dont.
Q. You do not remember anyone else that testified?
A. No, I dont remember now anyone else.
Q. Just put yourself back there to that murder trial; did Jim Slankard's alibi depend upon you alone?
4405 A. No, I dont know that it did, but I dont remember, anyone else.
Q. That was the only purpose you went to Greenwood for?
A. Yes.
Q. And you cannot tell the jury anyone else that testified?
A. No, sir, I cant tell the jury anyone else that was over there for that purpose. Lots of us were over there, but I dont remember their names.
Q. It was a pretty important thing, wasnt it? A. Yes.
Q. You knew Jim Slankard well? A. Yes.
Q. And there were others that testified to where he was at noon on the 17th of July?
A. I dont know whether there were any others testified to that hour or not.
Q. There were others that testified as to his whereabouts on the 16th of July?
A. I suppose there was. I never heard any of the others that testified to that.
Q. Did you know there were others that testified?
A. No.

The Court: If he did not hear the evidence, he couldnt tell anything about it.

Mr. Hull: That is all.

Witness Excused.

4406 E. MARIANELLI, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Grant:
Q. What is your name? A. E. Marianelli.
Q. Where do you live? A. At McAlester, Oklahoma.
Q. How long have you lived there?
A. I have lived there from,—well, it depends. I moved there about in April, but my office was not moved there,—

Q. (interrupting). I mean when you landed in McAlester? A. About July.

Q. Of what year? A. 1914.

Q. Were you in McAlester on the 17th of July, 1914?

A. Yes, sir.

Q. How far is your office from the office of the United Mine Workers?

A. Right on the same floor and on the side of the office of the United Mine Workers of America.

Q. Were you in the office of the United Mine Workers of America on the 17th of July, 1914? A. Yes, sir.

Q. That is the United Mine Workers of America, District 21, their office? A. Yes.

Q. Did you see Fred Holt there that day? A. Yes, sir.

Q. Did you see any boxes of guns there? A. Yes.

Q. What, if anything, called your attention to the guns, Mr. Marianelli?

A. Well I went into the office, the executive office of the United Mine Workers, and was talking to Mr. Tasso, the Italian Board Member, and while I was talking to him, Mr. Holt came in and made the remark the trouble was going on and he said, "I will get the blame for that and it is a good
4407 thing the guns are here", and pointed to them stacked up along the wall.

Mr. Covington: Take the witness.

Cross-Examination

By Mr. McDonough:

Q. Did you see the guns?

A. I saw the boxes that were marked firearms.

Q. I did not ask you that. Did you open the boxes and examine to see that the guns were in them?

A. I saw that one of the boxes were open and saw some shells.

Q. And all you know about it then is what you say that Holt said, that he would be blamed for that and it was a good thing the guns were there? A. Yes.

Q. And he motioned to some boxes, and that is all you saw? A. Yes.

Q. What is your business?

A. I am a lawyer, I was just starting in there.

Q. You were talking with the Italian Board Member?

A. Yes.

Q. Did you speak to him in Italian? A. No, in English.

Q. What time of day was that?

A. It was in the morning. I remember distinctly I was painting my own side on the outside of the office on the door.

Q. Early in the morning?
A. Not very early, I got down late.
Q. About what time in the morning was it, to your best judgment?
A. About ten or eleven o'clock. It was before the noon hour.
Q. Ten or eleven is your best judgment about it?
A. Yes.
Q. You got down earlier than that to your office, didn't you?
4408 A. Yes, I had already been there and was painting my sign on the door. My office furniture had arrived just three days before that.

Mr. McDonough: That is all.

Witness excused.

Mr. Covington: We have just two more witnesses, your Honor, and one of them is coming in on the train, and I think that will close our case.

The Court: And you would like to have until afternoon?

Mr. Covington: Yes, they will be very short and it won't take over ten minutes apiece.

The Court: The request is reasonable.

Mr. McDonough: We might save a little time, your Honor. There is a deposition taken by the defendants which they have not offered and we would like to read it.

The Court: Very well. Perhaps the defendants will want to read it.

Mr. Covington: I had forgotten that. We will offer it ourselves and it may be considered as read.

Mr. McDonough: We prefer to have it read.

Mr. Covington: Very well, we will read it, then.

Mr. Grant (reading):

4409 [Mr. Grant: (Reading)]

"Deposition of CHARLES E. JONES, taken at the office of the United Mine Workers of America, District No. 10, Room 405-6, Mutual Building, Seattle, Washington, August 17, 1917.

Q. State your name and place of residence?
A. Charles E. Jones, Seattle, Washington.
Q. What is your business?
A. Manager of Rosly Fuel Company.
Q. How long have you been connected with the Roslyn Fuel Company? A. Since September 1906.
Q. Is the Roslyn Fuel Company engaged in the conduct and operation of any coal mine or coal mines in the state of Washington? A. They are.
Q. At what points?
A. At Roslyn, Washington, and Cle-Elum, Washington.
Q. Is there, in the state of Washington, a Coal Operators Association? A. Yes, sir.
Q. Are you a member of that association? A. Yes, sir.
Q. How long have you been a member of the association?
A. I was a charter member of the association.
Q. When was it organized? A. April 1, 1910.
Q. Have you at any time held an official position in the Coal Operators Asociation of Washington?
4410 A. Am now Secretary and Treasurer.
Q. Is it a corporation or a voluntary association?
A. It is a voluntary association.
Q. As such did it adopt a constitution and by-laws to govern the conduct of its business and the acts of its members?
A. Yes, sir.
Q. I hand you here Exhibit "A" and ask that you state what that is?
A. That is the Constitution and By-laws of the Washington Coal Operators' Association.
Q. As a member of the Coal Operators' Association of this state have you attended any conferences between the coal operators, or between your association and the United Mine Workers of America? A. Yes, sir.
Q. How many conferences have you attended since the organization of this association?
A. I have attended them all, the first in 1910—well, now let me ask you, you are referring now to conferences held for the purpose of negotiating a new agreement.
Q. That is correct.
A. The first in 1910, then in the summer of 1912, the summer of 1914, the summer of 1916, and in June 1917; I might say I have been on every scale committee during those conferences except the year 1910.
Q. The conferences referred to by you consisted of what, by way of representation?

A. Ordinarily we had a joint conference on which all
4411 the delegates of the United Mine Workers of America and all the members of the Western Coal Operators' Association met for a few hours discussion at which meeting the sub-scale committee was appointed consisting of from three to five members of each side for the purpose of drawing up a new agreement and agreeing upon the scale of wages and working conditions for a period of two years, starting September 1, in the particular year in which this conference was held.

Q. Have you, on behalf of the mine operated by you, at any time since you went in the conduct and operation of coal mines, entered into any agreement, contract or understanding with the United Mine Workers of America to obstruct, hinder, or delay interstate trade in non-union coal? A. No, sir.

Q. Have you individually or as your association, ever at any time entered into any agreement, contract or understanding with the United Mine Workers of America by the terms of which the United Mine Workers of America and its membership were to commit acts of violence, call strikes, and commit murder and arson in order to prevent interstate trade and commerce in coal produced by non-union mines?

A. I have not.

Q. At the conferences referred to by you, has anything ever been said by you or any representative of the Washington Coal Operators' Association, or by any delegate or representatives of the United Mine Workers of America to the effect that lawlessness and the destruction of the means of producing non-union coal should be resorted to in order to keep the product of non-union mines off the market and out of
4412 competition of coal produced by union labor?

A. There has not.

Q. Was the question of the conduct and operation of non-union mines ever discussed in any of the conferences referred to by you? A. No, sir.

Q. Did the question of prices or the amount of tonnage produced by non-union mines, was it ever discussed or considered by your association and representatives of the United Mine Workers in negotiating wage scales?

A. It has, in so far as we have at times argued with the representatives of the miners that certain wages they demanded could not be met on account of non-union mines, however, not non-union mines in the United States, those of Vancouver Islands and British Columbia.

Q. Has the Coal Operators Association and the United Mine Workers of America, or any of its representatives, at

any of the conferences referred to, ever entered into any agreement, contract or understanding, by which unfair and unlawful means were to be resorted to by the United Mine Workers of America to the end that non-union coal might be entirely kept off the market? A. It has not, sir.

Q. At the time of the organization of the Washington Operators Association, was it composed strictly of coal operators operating with union labor, or intending to operate with union labor?

A. At the first organization we had a regular membership and what we termed "Associate Members", the regu-
4413 lar members were those working union mines; the associate members were those working non-union mines.

Q. Were the associate members you refer to engaged in the conduct and operation of mines within the state of Washington? A. The proposed associate members, yes, sir.

Q. Have you, as a coal operator or an individual, ever at any time entered into any conspiracy with any member of members of the United Mine Workers to commit murder, and arson, and engage in a career of crime and lawlessness to the end that non-union coal might be shut out of the market and the means of producing it destroyed? A. We have not.

Q. I hand you Exhibit "B" to your deposition, and ask you what it is?

A. The 1910 agreement between the United Mine Workers of America District No. 10, and Western Coal Operators Association, which is the first agreement made with the association.

Q. I hand you here Exhibit "C" to your deposition, and ask you what it is?

A. This is the 1912 agreement between the Association and the United Mine Workers of America.

Q. I hand you Exhibit "D" to your deposition and ask you what it is?

A. This is the 1914 agreement between the association and the United Mine Workers.

Q. You say in your conferences looking to the making of scale agreements, the members of the Washington Coal
4414 Operators Association met with representatives of the Miners and then selected delegates or representatives to formulate a scale and agree upon a scale with the representatives of the Miners.

A. To agree on a scale of wages and what we term working conditions; or general provisions under which the mines and relations between the operator and employee shall be conducted, subject to the approval of the re-convened con-

vention of the delegates of the miners organization and the Western Coal Operators Association.

Q. In any of these conferences did the committee representing your association, the Washington Coal Operators Association, have any authority to enter into any kind of an agreement other than agreeing upon the wage scale and fixing the conditions of labor, etc.?

A. No, sir, we had no authority to negotiate anything else.

Q. The only authority then, as I understand it, is the authority given to the delegate of the coal operators association by the association itself? A. Yes, sir.

Q. In other words, the representative of the association is charged with the duty of carrying out the resolutions appointing him as a delegate or representative of the Association? A. Yes, sir.

Q. Have you ever been engaged in the operation of a coal mine in any other state than Washington?

A. Yes, sir.

Q. In what state or states?

4415 A. Pennsylvania, West Virginia, Ohio, Illinois, Montana and Washington.

Q. How many years of experience have you had in the conduct and operation of coal mines in the various states just named by you? A. About 22 years.

Q. When did you first begin operating coal mines in the states named—I mean—your first conduct of a mine and in which one of the states mentioned by you?

A. I was first superintendent in Pennsylvania in 1896.

Q. Was this particular mine in Pennsylvania operated with union or non union labor? A. Non-union.

Q. What is the difference, if any, in the price paid non-union labor and the price paid union labor for the production of coal?

A. Ordinarily in the same district the wages are the same.

Q. Is it, or not, a fact that the cost of production is governed largely by conditions in each particular mine or locality in which the mine is located—I mean by that, conditions that naturally arise in certain localities?

A. Yes, sir, it is, in the state of Washington the cost of production varies in accordance with geological conditions more than anything else.

Q. Has the freight rates anything to do with the production and marketing of coal?

A. They have nothing to do with the production, but have considerable to do with the marketing.

Q. Does oil have any effect upon the market of coal?
4416 A. It has had a great effect in the state of Washington for the last five years past.
Q. Is that, or not, true as to other fields in which oil is produced?
A. It certainly must be true, that is fields in which fuel oil is produced.
Q. Now, Mr. Jones, from your twenty-two years of experience taking that as a basis, state the difference in the conduct of a mine by union labor and conduct and operation of a mine by non-union labor?
A. Well, the greatest difference is the fact that in the union mines we have a long agreement covering a great many of the conditions under which the men shall work, governing their discharge and governing their punishment, I might say, for violation of company rules, etc; we have a great many conditions where local agreements restrict us in the handling of our men to a great extent, more or less to our detriment some times. Whereas, with on-union mines, whether it be just or unjust, they conduct them to suit themselves, entirely to their own advantage, however, I think probably these restrictions add something to the cost of coal in the long run.
Q. Then these matters of which you speak are governed by contract? A. Yes, sir.
Q. The essential difference then in operating a mine with non-union labor is that you deal individually with your employes and have no written agreement, whereas, with the union you have a written agreement setting forth in
4417 detail the conditions of work, the amount to be paid for same, and the conditions under which the labor shall be performed? A. Yes, sir.

CHAS. E. JONES."

Mr. Grant: We offer in evidence Exhibits A. B. C. and D. referred to in Mr. Jones' deposition, and they may be considered as read.

The Court: Let them be considered as read.

(Said Exhibits A. B. C. and D so offered and received in evidence are in words and figures, as follows:)

Exhibit "A".

"Constitution and By-Laws
of the
Western Coal Operators Association
Adopted April 1st, 1910.

Constitution.

We, the undersigned Corporations, Companies and Individuals engaged in the business of coal mining in the State of Washington, do hereby associate ourselves together under the following articles of association:

Seal CARBON HILL COAL CO.
By L. W. Davies, Superintendent

Seal COAST COAL CO.
By W. D. C. Spikes, General Manager

Seal NORTHWESTERN
IMPROVEMENT CO.
By C. R. Claghorn " "

Seal PACIFIC COAST COAL CO.
By Jas. Anderson, Manager

Seal ROSLYN FUEL CO.
By Chas. E. Jones, Manager.

4418 Article I

The name of this Association shall be "The Washington Coal Operators Association."

Article II

The principal place of business and General Office shall be in the City of Seattle, Washington.

Article III

The object of this Association shall be:

(a) To promote just, stable, harmonious and business-like relations between its members and their em-
4419 ployes;

(b) To protect its members in the enjoyment of their rights and privileges under the laws of the State of Washington and of the United States;

(c) To assure in industrial contracts recognition of the legitimate needs and rights of the employers;

(d) To aid in enforcing agreements between the members of this Association and their employes, when such agreements are made;

(e) To promote businesslike methods in negotiating, interpretating and operating under industrial contracts with employes;

(f) To sustain morally or by legitimate methods the members of this Association suffering from demand or from strikes in violation of industrial contracts; and

(g) To safeguard the interests of the coal mining industry in the State of Washington; however,

(h) The selling price of coal and restriction of output is no part of the objects of this Association and cannot be discussed.

Article IV.

Section I.

Any person, Firm, Company or Corporation operating a coal mine in the State of Washington, may affiliate with this organization by becoming either:

(a) A member.

(b) An associate.

Section II.

Any person, Firm, Company or Corporation eligible
4420 to become a member or associate should first make application, paying initiation fee of $20.00 and such special assessments as may have been levied, and by signing the constitution and by-laws, the application first having been favorably acted upon by the Executive Council.

Section III.

(a) Members are those operators who make joint industrial contracts;

(b) Associates, those who do not.

Article V.

Section I.

The officers of this Association shall consist of a President, a Vice President and three Trustees, who together shall form the Executive Council, which shall represent the Association when it is not in session, and shall have full power to transact all business of emergency.

Section II.

The officers of this association shall serve for one year after the annual meeting, or until their successors are duly elected and qualified, the election to be made by ballot at the annual meeting.

Section III.

The Executive Council shall select an eligible person (not necessarily a member of the Association) as Secretary-Treasurer and shall fix the terms of his employment.

4421

Section IV.

Should any vacancies occur among the officers of this Association through death, resignation, neglect or refusal to serve, or from any other cause, the same may be filled by the Executive Council, and the officer or officers so selected shall serve until the next annual election of the Association.

Article VI.

Section I.

No Individual, Corporation, Company or Firm shall be represented by more than one member or one associate in this Association, said representative to deposit with the Association's Secretary-Treasurer credentials signed by the President, General Manager or owner of the Company, Corporation or property he represents.

Section II.

In the event of the unavoidable absence of any member or associate of this Association from any special or regular meeting, his written proxy will empower the person holding same to be present at and take part in the deliberations of said meeting and to vote on all matters pertaining to the business of the Association coming before the meeting.

Article VII.

For the purpose of defraying the expense necessary in carrying into effect the objects of this Association assessments may be levied at any regular meeting of the Association by a majority vote of all the members present, and in order that each individual, Corporation, Company or
4422 Firm represented in this association shall bear his or its proportionate share of the necessary expenses of the Association, the Individuals, Corporations, Companies or Firms composing said Association shall be divided into four classes to be known as first, second, third and fourth

class: 1st Class being operators producing 500,000 tons or over annually;

2nd Class being operators producing 200,000 tons to 500,000 tons annually;

3rd Class being operators producing 50,000 tons to 200,000 tons annually;

4th Class being operators producing under 50,000 tons annually.

And all assessments shall be made in proportion to the classes to whom they belong as determined from time to time by the Association, the percentage to be as follows:

Members second class shall be one half of first class;

Members third class shall be one quarter of first class;

Members fourth class shall be one eighth of first class.

Associates to pay one quarter assessments of members of same class.

Article VIII

Section I

The regular meetings of the Association shall be held on the third Friday of each month at 2 P. M. at the
4423 Association's office in the City of Seattle, the first meeting to be held on the third Friday of April 1910.

Section II

The April meeting of each year shall be the annual meeting.

Article IX

Section I

Any member not in arrears, may withdraw from this Association upon the expiration of thirty (30) days written notice of such intent, but no such withdrawal shall release the member withdrawing from any then existing obligations connected with industrial contracts, which such member was party with other members of this Association in making.

Section II

Any Associate not in arrears may withdraw from this Association upon the expiration of thirty (30) days written notice of such intent.

Article X

Alterations or amendments to this constitution may be made at the regular or special meeting of the Association by a vote representing two thirds of all the members of the Association, providing notice of proposed alterations or amendments be posted in the office of the Association and a notice of same mailed each member at least thirty (30) days prior to ballotting.

4424 By - Laws.

Section I

It shall be the duty of the President:

(a) To preside at all meetings of the Association, preserve order, and in the transaction of business to observe the rules of parliamentary practice.

(b) To sign all warrants for the expenditure of money authorized by the executive council;

(c) He can, and upon the request in writing of any three members of the Association shall, direct the Secretary to call a special meeting of the Association at the time and place designated in such written request, notice in writing of such meeting and the time and place of holding same to be sent to each of the members of the Association at least one week before such meeting.

(d) He can, and upon the written request of two members of the Executive Council shall call a meeting of the Executive Council on three days written notice or on one days telegraphic notice to each of the members thereof.

Section II

The Vice President shall perform the duties of the President in case of his absence.

Section III

The Board of Trustees with the President and the
4425 Vice President comprise the Excutive Council.

Section IV

The Executive Council shall be advisors to the President and three members shall constitute a quorum for the transaction of business and be a standing committee with power to investigate and adjudicate all alleged violations of existing industrial contracts, when such exist, with intent to

secure their faithful observance, and shall perform such other duties as set forth in the Association's constitution.

Section V

It shall be the duty of the Secretary-Treasurer:

(a) To keep true and correct minutes of all meetings:

(b) To collect or cause to be collected, during each year, the statistics and other information pertaining to the affairs of the Association and to compile the same in an annual statement, or as ordered by the Association.

(c) To countersign all warrants or bank checks drawn by the President;

(d) To take charge of all books of the Association;

(e) To make at the annual meeting of the Association or oftener if the Association shall do so direct, a statement showing in detail all receipts, disbursements, assests and liabilities of the Association during the preceding year;

(f) To receive all moneys paid to the Association,
4426 which shall be paid out by him only upon the warrant of the President, countersigned by the Secretary, the expenditure of which said money must first be ordered by the Executive Council.

Section VI.

At all meetings of the Association for the transaction of business other than heretofore provided as to the manner of levying assessments, five members shall constitute a quorum and any action taken shall be binding upon the other members of the Association, the same as if they had been personally present.

Section VII.

Each member obligates and pledges himself to seek to advance all legitimate means the purpose of this Association as set forth in Article III of the Constitution, to loyally cooperate in advancing the interests of the Association and to maintain and observe the industrial contracts, when such exist (paying no more or no less than the rates so agreed upon and making no more favorable conditions than those set forth therein.) deviations therefrom to be considered a violation of such contracts.

Section VIII.

Any member who has been charged with a violation of these By-laws shall upon notice thereof be given a reason-

able opportunity for defense before the Executive Council.

4427 If the preferred charges are proven and the member fails or refuses to conform to the requirements of this constitution and these By-laws, he may be expelled from the Association by a majority vote of the Executive Council, subject to review by the Association at any regular or special meeting.

Section IX.

The Executive Council shall make just and proper regulations regarding the use by members of the Association's office.

Section X.

These By-laws may be altered or amended at any regular or special meeting by a two thirds vote of all the members of the Association, providing a notice of the proposed alterations or amendments has been posted in the Association's office and a copy thereof sent to each member of the Association at least two weeks prior to ballotting.

Amendment To Article IX, Section I, of the Constitution adopted August 18, 1911:

Any member three months in arrears in payment of assessment may be expelled by a vote of the members present at any regular meeting."

4428 Exhibit "B"

Agreement.

United Mine Workers
of
America
with
Washington
Coal Operator's Association

Two Years Commencing Sept. 1st, 1910.

Seattle, Wash., August 13, 1910.

It Is Hereby Agreed between the Washington Coal Operators' Association, on the one hand, and the representatives of the United Mine Workers Of America and their District No. 10, on behalf of their organization, on the other hand, that the following scale of prices and the following rules and conditions shall be in effect for two years, commencing September 1, 1910, and terminating August 31, 1912.

And It Is Further Agreed that the parties to this contract shall meet in Seattle, Washington, on the third Monday in July, 1912, for the purpose of formulating another agreement. This agreement applies only to the mines being operated by them in the State of Washington.

4429

General Provisions.

Management of the Mine.

Section 1. The right to hire and discharge, the management of the mine and the working force are vested exclusively in the operators, and the United Mine Workers of America shall not abridge this right, but the operators shall not discharge or discriminate against employes or refuse employment to applicants because of personal prejudice or because of their affiliation with the United Mine Workers of America.

Hours of Labor.

Section 2. (a) It is definitely understood that this agreement be based on an eight-hour day; eight-hour day means eight hours' work at the usual working place, exclusive of one-half hour for mid-shift lunch, six days a week when required by the operators. Sundays and specified holidays excepted. However, this does not prohibit engineers, roperiders, motormen and cagers working the time necessary to hoist and lower men, and in no case shall they work more than te hours, but all such hours worked over eight shall be paid for at the scale rate on an eight-hour basis.

(b) Drivers shall work full eight hours in their respective places, and take their mules to and from the stalls, and the time for so doing shall not be included as part of the day's labor; provided that not more than ten minutes' time is required in going to or returning from his working place ans table.

(c) In case of emergency, which means any unlooked for event that would tend to impede the operation of the
4430 mine the following shift, the operator shall have the right to work the men necessary to put the mine in proper condition.

Price of Powder.

Section 3. The price of black powder to be $2.25 per 25-lb. keg; giant powder, 30 and 40 per cent, to be $3.85 per 25-lb. box; giant powder, 20 per cent, to be $3.00 per 25-lb. box; fuse per 100 feet, 60c; 3X caps, per 100, 75c; 4X caps, per 100, 80c; 5X caps, per 100, $1.00; 5X caps, per 25, 30x. Local con-

ditions to govern the grade and make of powder to be used at each mine. When two makes of powder of the same grade are on hand the miners to have their choice.

Pay Day.

Section 4. (a) Pay day to be monthly, payment to be made between the 15th and 20th of the month. The operators agree to pay in cash at camps where there are no banks located.

(b) The operators shall furnish, two days before pay day, a uniform and fully itemized detachable statement, showing how many days an employe has worked and wages paid per day, and how much tonnage he has been credited with, also yardage and the rate per yard. All errors to be corrected and paid within four days after pay day if demanded.

Doctor and Hospital.

Section 5. Present doctor and hospital arrangements to remain as at present until amended by the District Executive Board.

Duties and Limitations of the Pit Committee and Adjustment of Disputes and Grievances.

4431 Section 6. (a) The operators shall recognize the pit committee in the discharge of their duties as provided in this agreement.

The members of the pit committee shall be employes of the mine of which they act as pit committee.

(b) Whereas, The benefits to be derived from an industrial contract depend altogether upon the fidelity with which it is carried into effect; and

Whereas, It is our earnest and sincere desire that any agreement made and executed by and between the representatives of the miners of District No. 10 and the representatives of the different coal companies signing this agreement be observed and carried out in its entirety, and that all controversies arising under this contract shall be definitely settled:

It is therefore mutually agreed that in case of any local trouble arising at any time through a failure to agree between the foreman and any employ, the pit committee and the foreman are empowered to adjust it, and in case of their disagreement, it shall be immediately referred, in writing,

to the Superintendent of the operator and the Local President of the U. M. W of A. or such persons as either may designate to represent him; and should they fail to agree, it shall then be referred, in writing, by either party to the Commissioner of the respective operator and the District President of the U. M. W. of A. of District No. 10, or such persons as they may designate for its adjustment.

In case there should be a disagreement between the
4432 District president and the said Commissioner, the case shall be referred, in writing, to the General Manager of the respective operator and the International President of the United Mine Workers of America for a final decision or adjustment. In the event that the General Manager and the International President of the U. M. W. of A. fail to agree they shall have authority to select a person to decide the question in dispute, the mines to continue in operation.

All settlements and decisions rendered hereunder shall be final and binding on all parties concerned.

When Men shall Be Furnished by Pit Committee.

(c) If any day man refuse to continue at work because of a grievance which has or has not been taken up for adjustment in the manner provided herein, and such action seems likely to impede the operation of the mine, the pit committee shall, upon request of the operator, immediately furnish a man or men to take such vacant place or places, at the scale rate, in order that the mine may continue to work; and it shall be the duty of any member of the United Mine Workers of America who may be called upon by the pit committee, to immediately take the place assigned to him or them in pursuance hereof.

Duties and Limitations of Pit Committee.

(d) The pit committee, in discharge of its duties, shall under no circumstances go around the mines for any cause whatever without permission from the pit boss, unless called upon by the pit boss or by a miner or company man who may have a grievance that he has first tried to and cannot settle with the pit boss. Any pit committee who shall at-
4433 tempt any local rule or proceeding in conflict with any provisions of this contract, or any other in pursuance hereof, may be forthwith deposed as a committeeman. However, this clause is not to prohibit the pit committee from going around the mines on one day during each quarter, for the purpose of checking up the organization membership.

(e) Members of the pit committee employed as day men shall not leave their places of duty during working hours, except by permission of the operators, or in cases involving the stoppage of the mine.

(f) If any employe shall be discharged or suspended by the operator, and it is claimed that an injustice has been done hime, the committee, together with the employe in question, shall present the case to the Superintendent of the mine, in writing, within ten days. If satisfactory, settlement is not made with the Superintendent and the officers of the Local within four days, it may be taken up with the Commissioner of the operators and the District President within fifteen days thereafter. Should it be proven any employ has been unjustly discharged the operator shall pay him the scale rate for the time suspended. However, such compensation shall not exceed ten days. If the complaint is not brought before the Superintendent, in writing, within ten days, as provided above, it shall not be considered at any time thereafter.

(g) Not more than three committeemen to serve for each mine.

Collection of Union Dues and Assessments.

Section 7. The operators agree to check off all Union 4434 dues, initiation fees, and an assessment which may not exceed one per cent of the monthly earnings and such fines as may be agreed on locally by the District President and the respective operator from all miners and mine laborers in and around the mines who are members of the U. M. W. of A., upon presentation of an individual order authorizing the operators to make such deductions. This individual order to remain in force during the life of this agreement. The operators agree to furnish the Local's representative a monthly statement showing separately the amount of dues, initiation fees and assessments collected, and to pay to the proper representative of the Local Union all moneys so collected. Rent, doctor and union deductions to have preference.

Construction Work.

Section 8. The erection of head frames, buildings, scales, machinery, railroad switches, etc., necessary for the completion of a plant for loading, all being in the nature of construction work, is to be excluded from the jurisdiction of the U. M. W. of A. Extensive repairs to or rebuilding of same class of work shall also be included in the same exception, the employes thereon to be excluded as above, when employed on such work only.

Penalties for Impurities.

Section 9. In case rock, slate, bone, clay, sulphur or other impurities are sent up with the coal by the miners, it shall be the duty of whomsoever the operators shall designate as inspector to report the same, with the estimated weight thereof, and the miner so offending shall have such weight de-
4435 ducted from established weight of car. For the third offense occurring within thirty days or any malicious or aggravated case of the first, the miner may be indefinitely suspended or discharged, said weight to be determined by the inspector designated by the operator. Any malicious or aggravated case of the first to be determined by the inspector and check-weighman, and if they agree the case shall be considered closed. Should they fail to agree the impurities shall be kept as evidence, and the case taken up as provided for in section 6. This section does not apply to pitching seams.

Penalty for Stoppage of Work.

Section 10. (a) If any employe or employes shall cause the stoppage of work in violation of this agreement, he may be subject to discharge by the operator, without recourse.

(b) It shall be the duty of the operators to immediately notify the men in any entry or mine when for any reason the mine or entry is shut down for the day.

Preference of Employment.

Section 11. In case an employe is thrown out of employment, he shall be given preference in the same or other mines in the same camps operated by the same company.

Definition of Eight-Hour Day.

Section 12. (a) It is definitely understood and agreed that an eight-hour day means eight hours in the usual working place, six days per week when required by the operators. This rule does not apply to those men whose employment requires them to work seven days per week, or for the making of
4436 necessary repairs on machinery, shafts and slopes, and other work which cannot be done when the mine is running coal. All other Sunday work to be paid for on a six-hour basis.

(b) Holidays to be Observed. New Year's Day. First of April, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day are to be observed as holidays; also half day on November pay day for the election of District Officers.

Remuneration for Water.

Section 13. In all places where water accumulates, the same shall be bailed out or pumped out by the Company, but if done by the miner he shall be paid at the scale rate.

Pushing Empty Cars.

Section 14. (a) The miners shall not be required to push empty cars into their places while turning rooms, but empty cars shall be delivered to the end of the track by the Company until the rope is in. This applies to rooms where the pitch is too steep for the men to push the cars.

(b) When turning a room the track shall be put in as soon as practicable, and shall not be more than twenty feet from the face. In double rooms the rope shall be put in as soon as holed.

(c) A miner hauling his own coal shall be paid at the rate of 5c per car. This shall not apply to entry stumps at Roslyn and Cle Elum. In pitching seams where any miner pushes his cars more than 300 feet in gangway, he shall be compensated at the rate of 5c per car. But in no case shall the miner be required to push his car more than 600 feet.

(d) In rooms at Roslyn where the coal is run by chutes
4437 the Company is required to put in a platform as soon as there is room for it.

No Local Demands.

Section 15. No Local or management shall be allowed to make new conditions, until after the expiration of the specified life of this agreement, unless mutually agreed to.

Miners Taken from the Face.

Section 16. A miner taken from the face to drive or perform other day work shall receive the miner's scale of pay.

Fatal Accidents and Funerals.

Section 17. In case of an instantaneous death by accident in or around the mine, the miners or other employes of the entry on which the accident occurred shall have the privilege of discontinuing work for the remainder of that day, but work at the option of the operators shall be resumed the following day and continue thereafter. In case the operator elects to operate the mine on the day of the funeral of the deceased, as above, or where death has resulted from an accident in or around the mine, then the individual miners or employes may at their option absent themselves from work for the purpose

of attending such funeral, but not otherwise. And whether attending such funeral or not, each employe at the mine shall contribute an amount to be decided upon by the officers of District 10, and the Operator $50.00 for the benefit of the family of the deceased, or his legal representatives, to be collected through the office of the Company. The money so collected shall be turned over to the Treasurer of District 10 of
4438 the U. M. W. of A., who shall sign a release for all such money to the Company, and all money so collected shall be reserved for such purposes only.

In the event that the mines are thrown idle on account of the miners' or other employes' failure to report for work in the time intervening between time of accident and the funeral, or on the day of the funeral, the Company shall not be called upon for the payment of the $50.00 above referred to. Except in case of fatal accident as above, the mines shall in no case be thrown idle on account of any death or funeral, but in case (here pages 11, and 12 are missing from exhibit and page 13 starts as follows:)

Weighman, Boss Driver, Night Boss, Fire Boss, Head Machinist, Head Boilermaker, Head Carpenter, Head Electrician, and Night Watchman. The authority of the operator to hire and discharge may be delegated to the Mine Foreman, Top Foreman, Boss Driver, Night Boss and Head Machinist. (The term "Assistant Mine Foreman" shall apply only to such as are authorized to act in that capacity.) The Night Watchman shall be exempt when employed in that capacity only. The term "Head Carpenter" and "Head Machinist" shall apply only to such as have charge of carpentry or machine work, at one or more mines, or at one or more washing plants.

Engineers.

Section 26. (a) No engineer shall be subject to the authority or supervision of the pit committee, but in case of any disagreement which he cannot settle with the foreman and local president, the subject shall be taken up by the District Presi-
dent or his representative and the Superintendent, for
4439 adjustment. In case of their disagreement, to be taken up as provided in section 6. All engineers shall do their own firing or any other work connected with machinery assigned them by the operator, in places where it is practicable and their duties as engineers do not prohibit their so doing.

Employes to Care for Mine in Case of Disagreement.

(b) In case of either local or general suspension of mining, either at the expiration of this contract or otherwise, the engi-

neers, firemen and pumpmen shall not suspend work, but shall, when mining is suspended, fully protect all of the Compay's property under their care, and operate fans and pumps, and lower and hoist such men or supplies as may be required to protect the Company's property, and any and all coal required to keep up steam at the Company's coal plants, but it is understood and agreed that the operators will not ask them to hoist any coal produced by non-union labor for sale on the market.

Rules in Violation of Contract.

Section 27. This contract shall in no case be set aside because of any rules of any Local Union of the U. M. W. of A. nor shall there be any rules made controlling or affecting the operation of the mines, nor shall any change be made in the accepted rules without the operators and miners first consulting and agreeing thereto. All local rules in violation of this contract shall be null and void and no Local Union or group of Local Unions shall pass any rules in violation of this contract; neither shall any Company enforce any rules in violation of this contract.

4440 Development Work.

Section 28. No coal shall be loaded on idle days except from development work, and for the safekeeping of the mines. No coal shall be dumped on idle days except for these purposes.

Day's Wage Scale.

Inside Mine.

Miners	$ 3.80
Timbermen	3.80
Timbermen's Helpers	3.15
Tracklayers	3.80
Tracklayers' Helpers	3.15
Motormen	3.35
Drivers	3.35
Parting Boys	$1.90 to 2.40
Greasers	1.85
Trappers	1.60
Rope Riders	3.35
Hoist Men on Development Work	3.15
Hoist Boys on Development Work	2.50
Engineers	3.40
Cagers	3.40
Cagers' Helpers	3.15
Inside Labor, not specified	3.15

Shot Lighter	3.95
Pumpman	3.15

4441 Outside Mine.

Engineers	$ 3.40
Firemen	2.90
Cagers	3.15
Cagers' Helpers	2.75
Stablemen, per month	85.00
Teamsters	2.90
Couplers	1.60
Greasers	1.45
Dumper	2.75
Blacksmiths, 1st	3.70
Blacksmiths, 2nd	3.40
Blacksmiths' Helpers	2.90
Carpenters, 1st	3.70
Carpenters, 2nd	3.15
Car Repairers	2.90
Choppers	2.90
Screeners (men)	2.10
Screeners (boys)	1.60
Moving Picking Table (men)	2.20
Moving Picking Table (boys)	1.70
Outside Labor	2.60
Development Engineers	3.15
Machinists	3.40

Northwestern Improvement Co.

Roslyn-Cle Elum Field

The scale of prices herein provided shall include the work required to mine, shoot and load coal, and, where possible, to deliver the same to the entry; to lay track in the work-
4442 ing place, set wheel posts, move same and properly timber the working place.

Where chutes are used, the Company to build the platform and blast the rock necessary for laying switches and track, the platform to be built above the car. Miners to build chutes after the first two lengths of sheet iron have been laid by the Company.

The operator shall be required to furnish the necessary props and timber at the working place, except in chute rooms, where all timber and chute material shall be delivered at the bottom of the chute.

In entry and air courses the brushing shall be covered by the yardage price, and the entry coal shall be paid the same tonnage price as when the cap rock is 12 inches thick or less and is taken down.

Crosscuts to be full height of the seam and six feet wide.

Starting Time.

The man trip and the last man cage will leave the outside in time for miners and Company men to be at their working places at 7 o'clock a. m. from April 1st to September 30th, and 8 o'clock a. m. October 1st to March 31st. Drivers will have mules harnessed and hitched to trip at same hours. Quitting time for miners, Company men and drivers to be 3:30 p. m. from April 1st to September 30th, and 4:30 p. m. October 1st to March 31st. First cage will leave the shaft bottom at 3:35 p. m., from April 1st to September 30th, and 4:35 p. m. from October 1st to March 31st. Outside starting time to be at 7 a. m., April 1st to September 30th, and 8 a. m.
4443 October 1st to March 31st. Triple time to be arranged to the best advantage to handle the coal. Last cage to leave the top of the shaft and starting time for man trips to be decided by trial.

Shooting Time.

Miners will not shoot at noon hour, or at any other time before 3:25 p. m. from April 1st to September 30th, and 4:25 p. m. from October 1st to March 31st. Any miner shooting before these hours shall, when reported by the Superintendent, be fined $2.50 for each offense, or discharged, at the option of the Company. Special permission may be given by the Mine Foreman to shoot at noon hour.

Rents.

Five-room houses, per month	$7.50
Four-room houses, per month	6.50
Other houses, per room, per month	1.50

All employes shall have house coal for their own consumption delivered at $2.25 per ton.

Mining Rates.

At Roslyn, No. 5 and other openings on the Roslyn-Cle Elum vein, where 12 inches or less of cap rock is taken down, according to present Roslyn practice, per ton of 2,240 pounds	$ 1.02

	Where more than 12 inches of cap rock is taken down	1.05
	At Cle Elum, No. 5 and other openings on	
4444	the Roslyn-Cle Elum vein, where cap rock is left up, according to present Cle Elum practice, per ton of 2,240 pounds	$ .95
	Chute work on Roslyn-Cle Elum vein, per ton of 2,240 pounds	.92
	Crosscuts in rooms, per yard	1.15
	Entry price, 14 ft. wide, per yard	2.90
	Entry price, 14 ft. wide, cap rock up, at Cle Elum	1.85
	Entry price, 8 ft. wide, per yard	3.40
	Down-hill Crosscurs, under 40 ft. per yard	1.60
	Down-hill crosscuts, over 40 ft. per yard	2.50
	Up-hill crosscuts, under 50 ft. per yard	1.60
	Up-hill crosscuts, over 50 ft. per yard	2.50
	Room turning, 20 ft.	8.50
	Room turning, 40 ft.	10.50
	Slope sinking, per yard	3.70

Ravensdale.

The scale of prices herein provided shall include the work required to mine, shoot and deliver coal into the top end of the chute (or into the cars on gangway in temporary chute work), to properly timber the working place, build chutes, ladders, set center posts and build brattice in the chute.

The operator will furnish all timber at the nearest crosscut, except chute material, which will be furnished at the first crosscut.

In the McKay all material will be delivered at the nearest cross cut to the face.

4445 In pillar work the miner will build all brattices.

First crosscuts must be six feet wide, other crosscuts four feet wide and height of chute work.

Last man car for morning shift leaves the top at 6:55 a. m., and the first man car at end of shift leaves the bottom at 3:35 p. m.

Afternoon shift last car leaves top at 3:50 p. m., and first car at end of shift leaves bottom at 12:30 a. m. First level will shoot at 9:15 a. m., 12:00 and 3:15 p. m., 6:15 p. m., 9:30

p. m., and 12:15 a. m. Second level will shoot at 10:30 a. m., 3:15 p. m., 8:15 p. m., and 12:15 a. m. Winter schedule 30 minutes later.

Rents.

Five-room houses, per month	$ 7.50
Four-room houses, per month	6.50
Other houses, per room, per month	1.50

All employes shall have house-coal for their own consumption at the following rates:

Coal, per ton, delivered	$2.00

Nut coal to be provided when it is available.

No. 3 Seam.

Gangway, 6 ft. wide collar 6 1.2 ft. high, per yard	$ 8.30
Chute, 5 ft. wide, height of seam, brattice and manway	2.50
Crosscuts, 5 ft. wide, height of seam, no timber	2.60
4446 Crosscuts, 4 ft. wide, 4 ft. high, no timber	$ 2.00
Crosscuts between breasts	1.70
Coal from breast, including building of brattice, chute and manway, per car.	.58
Timbering in first crosscut, timber 6 in. diameter, per set	.80
Temporary chute	1.60
Laying sheet iron, per lineal yard	.30

Miners on pitch to deliver coal in chutes. Company shall buck coal in main chute where pitch is too light for coal to run free.

No. 4 Seam.

Gangway, 6 ft. collar, 6½ ft. in the clear, per yard	$ 9.90
Chutes, 6 ft. wide, height of seam center post, brattice sheet iron laid and manway	3.45

	First crosscut, 6 ft. wide, height of seam, no timber	3.70
	Crosscuts between chute, 4 ft. wide and 4 ft. high, no timbering	2.90
	Crosscuts between breasts, 4 ft. wide and 4 ft. high	1.90
	Breasts, including brattice, sheet iron and manway, per car	.70
	Pillars, per car	.58
	Breast, 10 ft. wide, brattice, sheet iron and manway, 80c per yard, and car pay 70c per car.	
	Timbering-in crosscuts, timber 6 in. diameter, per set	.80
4447	Temporary chute	$ 1.60

Miners on pitch to deliver coal in chutes. Company shall buck coal in main chute where pitch is too light for coal to run free.

No. 5 Seam.

	Gangway, 6 ft. collar 6-½ ft. in clear, per yard	$ 8.70
	Gangway, 6 ft. collar 6 ft. in clear, lifting 4 fr. rock, measured from top of rail	10.45
	Chutes, 6 ft. wide, not less than 5 ft. high, center post, brattice, sheet iron and manway	2.90
	First cross-cut, 6 ft. wide, not less than 5 ft. high, no timber	3.40
	Other crosscuts, between chute, 4 ft. wide, 4 ft. high, no timber	2.90
	Other crosscuts between breasts, 4 ft. wide, 4 ft. high, no timber	1.90
	Breast, miner to build brattice, sheet iron and manway, per car	.58
	Miner when working pillars by day work, per day	4.00

Timbering in first crosscut, timber 6 in. diameter, per set ..... .80

Temporary chute 1.60

Miners on pitch to deliver coal in chutes. Company shall buck coal in main chute where pitch is too light for coal to run free.

4448 No. 9 Seam.

Gangway, 5-½ ft. collar in clear, 6 ft. high, par yard .....$ 12.00

First crosscuts, 6 ft. wide by height of seam, no timbering 2.90

Crosscuts between chutes, 4 ft. wide, height of seam 2.02

Chute, 6 ft. wide by height of seam..... 2.02

Temporary chute, 6 ft. wide, height of seam 2.90

Chute building with brattice, per yard .. .75

Laying sheet iron, per yard ..... .30

Brattice, per yard ..... .30

Miners on pitch to deliver coal in chutes. Company shall buck coal in main chute where pitch is too light for coal to run free.

McKay Seam.

Gangways, 6 ft. collar, 6-½ ft. in clear, per yard . . ..$ 9.30

Chutes, 10 ft. wide, timbered 4 pc. set, lagged, including brattice, sheet iron and manway, per yard 4.05

Chutes, 8 ft. wide, timbered, 4 pc. set, lagged, including brattice, sheet iron and manway, per yard 3.45

Chutes, 6 ft. wide, timbered, 4 pc. set, lagged, including brattice, sheet iron and manway, per yard 2.90

First Crosscut, 6 ft. wide, height of seam, timbered, 3 pc. set., lagged 3.15

4449 Crosscuts, 4 ft. wide, 4 ft. high, 3 pc. set, lagged . . ..$ 2.65

Pillars, per yard, 3 ft. wide	.70
Brattice building, per yard	.20

Miners on pitch to deliver coal in chute. Company shall buck coal in main chute where pitch is too light for coal to run free.

Melmont No. 3 Seam.

Gangway, 6-½ ft., collar 6-½ ft. high, 9 fy. legs, par yard .....$	9.25
Counter, 5 ft. high, 6 ft. wide in the clear, timbered and lagged, per yard	3.45
Crosscuts, 4 ft. wide, 4 ft. high in the clear, timbered and lagged	2.10
Chutes, temporaries, including building chute, timbering and bulkhead	2.30
Breasts, 18 ft. wide, thickness of coal, cog built each side of chute, 6 ft. apart up the pitch, lagged between the cogs..	4.75
Pillars, 90 sq. ft. thickness of seam.....	5.25

All other mining rates and timber prices advanced 5.55%.

Timber delivered at working place or nearest crosscut to the working place.

Starting time: Last man car for morning shift leaves the top at 7:55 a. m., and the first man car at the end of shift leaves the bottom at 4:35 p. m. Afternoon shift—last car leaves top at 4:50 p. m., and the first car at end of shift leaves bottom at 1:30 a. m.

4450 The Roslyn Fuel Company.

Regulations regarding shooting time are to remain as at present.

All employes shall have house coal furnished for their own use, delivered in vicinity of Beekman or Ronald, at $2.25 per ton.

Where cap rock can be held with safety to life and limb, the same shall be kept up, and the price per ton of 2,240 pounds shall be 95 cents.

Where cap rock of less than 12 inches in thickness is taken down, the price shall be $1.02.

Proper care shall be taken in propping all working places in a workmanlike manner.

Mining Rates.

Mining coal, per ton of 2,240 pounds	$ .95
Crosscuts in rooms, per yard	1.15
Entry price, 8 ft. wide, per yard	3.40
Entry price, 8t ft. wide, brushed four mules only, and not over 6 inches	2.60
Entry price, 14 ft. wide, per yard, brushing gobbed	2.90
Down-hill cross cuts, under 40 ft. per yard	1.60
Down-hill crosscuts, over 40 ft. per yard	2.50
Up-hill cross cuts under 50 ft. per yard	1.60
Up-hill crosscuts over 50 ft. per yard	2.50
Room turning, 20 ft. long	8.50
Room turning, 30 ft. long	9.50
Room turning, 40 ft. long	10.50
Slope sinking, per yard	3.70

4451 Pacific Coast Coal Company.

House rent to remain as at present.

Electric light charges, 50 cents per month per 16 c. p. lamp.

Coal delivered, $3.00 per ton of 2,000 pounds.

When employes own their houses, $1.00 ground rent per month for lot (5,000 square feet) for residental purposes.

When employes own their houses and water is furnished by the Company, water rent is 50 cents per tap per month.

Tool sharpening, except saws and axes, free.

Repairing of tools when desired by employes, at cost, which is wages of mechanics, plus 10 per cent, added for use of coal and tools.

Company to place grindstones for miners' use at each mine.

Miners on pitch to deliver coal in chutes. The Company shall buck coal in main chutes where pitches are too light for coal to run free. The angular chutes in pillar work are termed main chutes.

Gem Mine.

Gangway, 6 ft. collar in clear, including timbering, laying track and rock to be lifted 4 ft. above upper rail, per lineal yard	$ 10.00

Chutes, 6 ft. wide and 5 ft. high, per lineal yard.....3.15

Chutes, 6 ft. wide and height of seam, per lineal yard 2.10

Crosscut, 5 ft. wide in clear, per lineal yard.... 2.10

4452 Breasts, 24 ft. wide, timber to be delivered on gangway, per lineal yard $5.70

Chute building with brattice, timber to be delivered on gangway, per lineal yard ..... .80

Pillars 1 ft. wide, timber to be delivered on gangway, per lineal yard ..... .16

Where pitch is less than 35 degrees, $1.05 extra per lineal yard on gangway.

Mine No. 14, Little Seam.

Gangway, 14 ft. wide in coal, 6 ft. collar, in clear, including timbering, making ditch, laying track and rock to be lifted 4 ft. above upper rail, per lineal yard $10.50

Breasts, 30 ft. wide, timber delivered at end of manway, per lineal yard 5.25

Skips, 30 ft. wide, timber delivered at end of manway, per lineal yard 4.20

Skips, 20 ft. wide, timber delivered at end of manway, per lineal yard 2.65

Skips 15 ft. wide, timber delivered at end of manway, per lineal yard 2.15

Chutes and Cross-cuts, 6 ft. wide, (1st crosscut), timber delivered on gangway, per lineal yard.. 3.15

Crosscuts between breasts, 4ft. wide in clear, timber delivered at end of manway, per lineal yard.. 2.60

When crosscuts between breasts are driven over 35 ft.
4453 from either side, 50 cents additional price per yard for each additional 21 ft. driven.

Relief sets in crosscuts between breasts with lagging, timber delivered on gangway, per set $ 1.05

Relief sets in crosscut between breasts with lagging, timber delivered at end of manway, per set ..... .80

Company to load all coal from chutes and first crosscuts.

Miners to deliver coal in chutes.

Mine No. 14 Big Seam.

Gangways, 21 ft. wide in coal, including timbering, laying track and rock to be lifted 4 ft. above upper rail, per lineal yard	$ 12.65
Gangways, with 6 ft. wide collar in clear, including timbering, making ditch, laying track and rock to be lifted 4 ft. above upper rail, per lineal yard	10.00
Breasts, 30 ft. wide, timber to be delivered at end of manway, per lineal yard	7.90
Breasts, 20 ft. wide, timber to be delivered at end of manway, per lineal yard	5.80
Pillars, 1 ft. wide, timber delivered at end of manway, per lineal yard	.21
Chutes, 6 ft. wide in clear, timber delivered on gangway, per lineal yard	3.15
Chutes, 10 ft. wide, timber delivered at end of manway, per lineal yard	3.70
4454 Crosscut, 6 ft. (1st crosscut), timber delivered on gangway, per lineal yard	3.15
Crosscut, 4 ft. wide in clear, timber delivered at end of manway, per lineal yard	2.60
When crosscuts between breasts are driven over 35 ft. from either side, 50 cents additional price per lineal yard for each additional 21 ft. driven.	
Relief sets of timber in breasts, timber delivered at end of manway, per set	1.05
When small seam is worked out first, 30 ft. breast, per lineal yard	9.00
When small seam is worked out first, 20 ft. breast, per lineal yard	6.30
When small seam is worked out first, 10 ft. chute, per lineal yard	4.20

Company to load all coal from chute and first crosscut.

Miners to deliver coal in chute.

Morgan Slope Little Seam.

Gangway, 6 ft. collar in clear, paid per car for coal, including timbering, making ditch, laying track and rock to be lifted 4 ft. above upper rail, per lineal yard $ 8.00

Chute, 6 ft. wide paid per car for coal, timber delivered on gangway, per lineal yard 1.60

Crosscut, 6 ft. wide, (1st crosscut). paid per car for coal, timber delivered on gangway, per lineal yard 1.60

4455 When crosscuts between breasts are driven over 35 ft. from either side, 50 cents additional price per yard for each additional 21 ft. driven.

Relief sets of timber in chutes and first crosscuts with lagging, timber delivered on gangway per set $1.05

Relief sets of timber breasts with lagging timber delivered at end of manway, per set 1.05

Relief sets of timber in crosscuts between breasts, timber delivered at end of manway, per set .80

Price eor car of coal the same as in big seam, with the same conditions as to thickness of coal to govern.

Company to pay one shoveler for each two miners working in gangways; also in breasts and pillars, when coal is to be loaded in breast cars. If only one miner is in, miners to pay half of shoveler's wages; if shoveler is not in, miner to receive proportional part of shoveler's wages; one miner half, two miners all.

Company to load coal from chute and first crosscut.

Miners to deliver coal in chute.

Morgan Slope Big Seam.

Gangways, 21 ft. wide, 6 ft. collar in clear, including timbering, laying track, and rock to be lifted 4 ft. above upper rail, paid per car for coal, per lineal yard $9.00

4456 Gangway, 6 ft. collar in clear, including timbering, maching ditch, laying track and rock to be lifted 4 ft. above upper rail, paid per car for coal, per lineal yard $8.00

Breasts, 20 to 30 ft. wide, paid per car for coal, timber delivered at end of manway.

Pillers, paid per car for coal, timber delivered at end of manway.

Chutes, 6ft. wide, paid per car for coal, timber delivered on gangway, per lineal yard 1.60

Chutes, 10 ft. wide, paid per car for coal, timber delivered at end of manway, per lineal yard 1.05

Crosscuts, 6 ft. wide (1st crosscuts), paid per car for coal, timber delivered on gangway, per lineal yard 1.60

Crosscuts between breasts, 4 ft. wide in clear, paid per car for coal, timber delivered at end of manyway, per lineal yard 1.60

When crosscuts between breasts are driven over 35 ft. from either side, 50 cents additional price per yard for each additional 21 ft. driven.

Chute building, one width sheet iron, material delivered at end of manway, per lineal yard .30

Chute building, two widths sheet iron, material delivered at end of manway, per lineal yard .60

Relief sets in breasts and chutes, timber delivered at end of manway, per set 1.05

4457 Coal from gangways and breasts when seam is 5 ft. and over, per car $.52

Coal from gangways and breasts when seam is under 5 ft. per car .64

Coal from gangways and breasts when seam is under 4 ft. per car .74

Coal from pillars when seam is 5 ft. and over, per car .42

Coal from pillars when seam is under 5 ft. per car .52

Coal from pillars when seam is under 4½ ft. per car .64

Company to pay one shoveler for each two miners working in gangways; also in breasts and pillars, when coal is to be loaded in breast cars.

When only one miner is in, miners to pay half of shoveler's wages; when shoveler is not in, miners to receive proportional part of shoveler's wages; one miner half, two miners all.

Company to load coal from chutes and first crosscuts.

Miners to deliver, coal in chute.

Lawson Mine.

Gangway, including timbering, making ditch, laying track and rock to be lifted 4 ft. above upper rail, paid per car for coal, per lineal yard	$6.20
Chutes, 6 ft. wide, timber delivered on gangway, per lineal yard	3.70
4458 Chutes 10 ft. wide, timber delivered on gangway, per lineal yard	$4.50
Brattice, timber delivered on gangway, per lineal yard	.30
Chute building with sheet iron, material delivered on gangway, per lineal yard	.75
Crosscuts, 5 ft. timber delivered on gangway, per lineal yard	3.15
Widening and timbering in first crosscuts, timber delivered on gangway, per lineal yard	1.85
Crosscuts, 4 ft. wide in clear, timber delivered on gangway, per lineal yard	2.60
Relief sets in chutes and crosscuts, timber delivered on gangway, per set	1.05
Pillars, 1 ft. wide, timber delivered at end of manway, per lineal yard	.28
Carrying props to pillars and breasts, timber delivered on gangway, per prop	.11
Relief sets in breasts and chutes, timber delivered on gangway, per set	1.05
Coal per car when seam is less than 4 ft. in gangways and breasts	.80
Coal per car when seam is 4 ft. and over, in gangways and breasts	.68
Boiler coal in gangways, per car	.30

Company to load coal from chutes and first cross cuts. Miners to deliver coal in chutes.

4459 Coal Creek Mine Muldoon Seam.

Breasts, 30 ft. wide including timbering, timber to be delivered on gangway, per lineal yard	$6.00
Breasts, 50 ft. wide, including timbering, timber to be delivered on gangway, per lineal year	10.10
Chute, 10ft. wide, including timbering, timber delivered on gangway, per lineal yard	3.50
Chutes 7 ft. wide, including timbering, timber delivered on gangway, per lineal yeard	2.85
Pillars, 1 ft. wide, including timbering timber to be delivered on gangway, per lineal yard	.19
Crosscut, 4 ft. wide in clear, including timbering, timber delivered on gangway, per lineal yard	2.20
Chute building, with 3 posts and 10 ft. collar, timber delivered on gangway, per lineal yard	1.60
Chute building, with 2 posts, timber delivered on gangway, per lineal yard	1.05
Chute building, with 1 post, timber delivered on gangway, per lineal yard	.80
Post in crosscut, with lagging, timber delivered on gangway, per post	.25
Wing and battery post, timber delivered on gangway, per post	.50
Relief sets in chutes and breats, timber delivered on gangway, per set	1.60

4460 All timbering, where timber is packed by miners, paid double above 400 ft. above gangway.

When breasts are worked on car rate, price per car of coal .74

Coal Creek Mine No. 4 Seam.

Breasts, 25 ft. wide, including timbering, timber delivered on gangway, per lineal yard	55.80

Chutes, 10 ft. wide, including timbering, timber delivered on gangway, per lineal yard	3.15
Chutes, 6 ft. wide, indlucing timbering, timber delivered on gangway, per lineal yard	2.65
Crosscuts, 4 ft. wide, in clear, including timbering, timber delivered on gangway, per lineal year	2.20
Pillars, 1 ft. wide, including timbering, timber delivered on gangway, per lineal yard	.19
Chute building, with 3 posts and 10 ft, cellar, timber delivered on gangway, per lineal yard	1.60
Post in crosscut, with lagging, timber delivered on gangway, per post	.23
Wing and battery post, timber delivered on gangway, per post	.50
Relief sets in chutes and breasts, timber delivered on gangway, per set	1.60
All timbering, where timber is packed by miners, paid double above 400 ft. above gangway.	
When breasts are worked on car rate price per car coal	.80

4461 Coal Creek Mine No. 3 Seam.

Chutes, 10 ft. wide, per lineal yard	$3.70
Chutes, 7 ft. wide, per lineal yard	2.90
Chute building, with 3 posts and 10 ft. collar, timber delivered on gangway, per lineal yard	1.60
Chute building, with 2 posts, timber delivered on gangway, per lineal yard	1.05
Chute building, with 1 post, timber delivered on gangway, per lineal yard	.80
Relief sets in chutes, timber delivered on gangway, per set	1.60
Post in Crosscut, with lagging, timber delivered on gangway, per post	.25
Battery and wing posts, timber delivered on gangway, per post	.50
Pillars, 1 ft. wide, timber delivered on gangway, per lineal yard	.19

All timbering, where timber is packed by miner, paid double above 400 ft. above gangway.

Coal Creek No. 2 Seam.

Breasts, 20 ft. wide, including timbering, timber delivered on gangway, per lineal yard	$5.70
Pillar, 1 ft. wide, including timbering, timber delivered on gangway, per lineal yard	.21
Chutes, 10 ft. wide, including timbering, timber delivered on gangway, per lineal yard	3.80
Chutes, 7 gy. wide, including timbering, timber delivered on gangway, per lineal yard	3.15
4462 Crosscuts, 4 ft. wide in clear, including timbering, timber delivered on gangway, per lineal yard	2.55
Chute building, with 3 posts and 10 ft. collar, timber delivered on gangway, per lineal yard	1.60
Chute building, with 2 posts, timber delivered on gangway, per lineal yard	1.05
Chute building, with 1 post, timber delivered on gangway, per lineal yard	.80
Post in crosscut, with lagging, timber delivered on gangway, per post	.25
Wing and battery post, timber delivered on gangway, per post	.50
Relief sets in chutes, timber delivered on gangway, per set	1.60

All timbering, where timber is packed by miner, paid double above 400 ft. above gangway.

Burnett Mine.

Conditions as at present, and all deficient work to be made up to scale rate.

Commonwealth Coal Company.

House rents to remain as at present.

Starting time to be arranged between the local union and the Company's Superintendent.

Tool sharpening, except axes, free.

House coal to be delivered in South Willis camp at $2.50 per cart load.

4463 Peacock Seam.

Gangway, 5½ ft. in clear of legs in top, 8 ft. spread in clear of legs, 6 ft. high in clear of rails, including ties 2 ft. apart and track, per lineal yard	$9.00
Gangway, chutes 6 ft. wide, per lineal yard	1.85
Counter, 6 ft. wide, per lineal yard	2.50
Chutes, 5 ft. wide, per lineal yard	1.50
Crosscuts, 5 ft. wide, per lineal yard	1.50
Pillars, 30 ft. wide, per lineal yard	3.50
Cogs, each	1.00

Timbers to be delivered where miners need them, miners to do the timbering.

Windsor Seam.

Gangway, 5½ ft. in clear of legs in top, 8 ft. spread in clear of legs, 6 ft. high in clear of rails, including ties 2 ft. apart and track, per lineal yard	12.00
Gangway, chutes 6 ft. wide, per lineal yard	2.00
Counter, 6 ft. wide, per lineal yard	2.50
Chutes, 5 ft. wide, per lineal yard	1.85
Crosscuts 5 ft. wide, per lineal yard	1.85
Breasts, 21 ft. wide, per lineal yard	3.50
Breast, 21 ft. wide, with brattice, per lineal yard	4.00
Pillars 30 ft. wide, per lineal yard	4.50
Cogs, each	1.00

Timbers to be delivered where miners need them, miners to do the timbering.

4464 Jones Seam.

Gangway, 5 ½ ft. in clear of legs in top, 8 ft. spread in clar of legs, 6 ft. high in clear of rails, including ties 2 ft. apart and track per lineal yard	$9.00

Gangway chutes, 6 ft. wide, per lineal yard	2.00
Counter, 6 ft. wide, per lineal yard	2.50
Chutes, 5 ft. wide, per lineal yard	1.85
Crosscuts, 5ft. wide, per lineal yard	1.85
Pillars 30 ft. wide, per lineal yard	4.50

Timbers to be delivered where miners need them, miners to do the timbering.

Big Seam.

Gangway, 5 ½ ft. in clear of legs in top, 8 ft. spread in clear of legs, 6 ft. high in clear of rails, including ties 2 ft. apart and track, per lineal yard	$11.00
Gangways chutes, 5 ft. wide by height of seam, per lineal yard	3.00
First counter, 5 ft. wide by height of seam, per lineal yard	3.75
Angle chutes, 6 ft. wide by height of seam, per lineal yard	3.00
Crosscuts, 3 ft. by 4 ft. per lineal yard	1.85

Timbers to be delivered where miners need them, miners to do the timbering.

4465 Prices of the Wilkeson Coal & Coke Co.

	Price Per yard.
East 2 gangway, 6½ ft. collar, 9½ ft. spread 6½ ft. clear of the rail, timbers every 5 ft. ties 2 ft. track laid	$9.75
Counters, all in coat, 6 ft. high or 30 ft. area, timbers set every 5 ft.	2.30
Top counters, 6 ft. in clear above rail, 5 ft. wide, all in coal, timbers every 5 ft. in clear	3.15
Flat crosscuts, 4x4, timbers every 5 ft.	1.80
Angle chutes and one crosscuts 4x4, timbers every 5 ft.	1.70
Breasts or chutes, timbered 8 ft. in clear, collars with legs every 5 ft. centered post, brattices, steps and braces up and down pitch and crossways	3.15

Pillars, 90 sq. ft	4.20
South 3 and East 3; Counters, all in coal, 6 ft. high or 30 ft. area, timbers set every 5 ft.	2.55
Top counters, 6 ft. in clear above rail, 5 ft. wide, all in coal, timbers every 5 ft. in clear	6.35
Flat crosscuts 4x4, timbers every 5 ft.	2.10
Chutes, as now driven	2.10
Pillars, 90 sq. ft.	4.75
South 2: Counters all in coal, 6 ft. high or 30 ft. area, timbers set every 5 ft.	2.30
4466 Top counter, 6 ft. in clear above rail, 5 ft. wide, all in coal, timbers every 5 ft. in clear	$ 5.05
Flat crosscuts, 4x4, timbers every 5 ft.	1.90
Chutes, 4x4 inside, as now driven	1.90
Medium-sized counter, as now being driven	3.15
Pillars, 90 sq. ft.	4.75

Wilkeson Coal & Coke Co.

Coke Ovens.

Prices as follows:

For drawing 10,000 lb. charge	$ 1.05
do 11,000-lb. charge	1.15
do 12,000-lb. charge	1.25
do 13,000-lb. charge	1.35
do 14,000-lb. charge	1.45
For Forking 10,000-lb. charge	.42
do 11,000-lb. charge	.44
do 12,000-lb. charge	.46
do 13,000-lb. charge	.48
do 14,000-lb. charge	.50
Leveling, per oven	.15
Charging, per day	2.64
Common labor, per day	2.64

Carbon Hill Coal Co.

Local Conditions.

Electric light charges, 50 cents per month per 16 c. p. lamp.

Coal delivered $3.50 per ton of 2,240 pounds.

House rent to remain as at present.

4467 When employes own their houses, $2.00 ground rent per month for residential purposes.

When employes own their houses and water is furnished by the company, water rent is $1.00 per tap per month.

Tool sharpening, except saws and axes, free.

Repairing of tools when desired by employes, at cost.

Miners to furnish their own tools.

No. 1 Slope.

	Per yard
Breast, 21 ft. wide, (Timber and sheet iron included)	$ 4.20
Chute and crosscut, 4 ft. wide, height of vein	1.90
Counter gangway, 6 ft. wide, height of vein (includes timbering)	3.20
Pillars, 90 sq. ft. (includes timbering)	3.25
Gangway in its present condition.	
Ties every 2 ft. apart and track laid	12.00

Mine No. 5 South.

	Per yard
Gangway, 6 ft. collar, 6 ½ ft. from rail, ties 2 ft. apart and track	$11.00
Pillars, 90 sq. ft. (timbering included)	4.50
Chutes and crosscuts, dry. 4 ft. wide, height of coal	1.70
Chutes and crosscuts, wet, 4 ft. wide, height of coal	1.90
Counter gangway, 6 ft. wide, height of coal	2.65

4468 Mine No. 6

	Per yard
Breast, 21 ft. wide (timbering included)	$ 6.00
Pillars, 90 sq. ft. (timbering included	5.00

Chutes and crosscuts, 4 ft. wide, thickness of coal	2.10
Counter gangway, 6 ft. wide, height of coal (timber included)	3.50

Mine No. 4 North

	Per yard
Breasts (timbering included)	$ 5.30
Pillars, 90 sq. ft. (timbering included)	5.30
Counter gangway, 6 ft. wide, height to White Rock (timbering included)	2.80
Chutes and crosscuts, 4 ft. sq.	1.70

North One Slope.

	Per yard
Gangway all in coal	9.75
One shot in rock, collar 6 ft. in clear, 9 ft. spread, 6½ ft, off rail, ties every 2 ft. apart, track laid	11.00
Breast, 18 ft. wide (including timbering and sheet iron)	6.30
Chutes and crosscuts 4 ft. wide, 5 ft. high	1.90
Counter gangway, 6ft. wide, 6 ft. high (timbering included)	3.20
Pillars 90 ft sq. (timbering included)	4.75

In case any miner does not make the scale wage at the above prices he will be made up to not less than the miners' scale rate as per contract.

4469 On behalf of the Washington Coal Operators' Association.

L. W. DAVIES,
President.

THOMAS BURKE,
Commissioner.

On behalf of the United Mine Workers Of America:

FRANK GATZ,
President District No. No. 10.

J. H. WALLACE,
Secretary District No. 10.

On behalf of Scale Committee.

L. W. DAVIES,
JAMES DURHAM.
J. F. MENZIES,
JAS. ANDERSEN.
FRANK GATZ,
J. H. WALLACE."

4470 Exhibit "C"

Agreement
United Mine Workers of America
with
Washington Coal Operators' Association.

Two years commencing September 1st, 1912.

Seattle, Wash., August 27, 1912.

It Is Hereby Agreed between the Washington Coal Operators' Association, on the one hand, and the representatives of the United Mine Workers of America, and their District No. 10, on behalf of their organization, on the other hand, that the following scale of prices and the following rules and conditions shall be in effect for two years, commencing September 1, 1912, and terminating August 31, 1914.

And It Is Further Agreed, that the parties to this contract shall meet in Seattle, Washington, on the third Monday in July, 1914, for the purpose of formulating another agreement. This agreement applies only to the mines being operated by them in the State of Washington.

General Provisions.

Management of the Mine.

Section 1. The right to hire and discharge, the management of the mine and the working force are vested exclusively in the operators, and the United Mine Workers of America shall not abridge this right, but the operators
4471 shall not discharge or discriminate against employes or refuse employment to applicants because of personal prejudice or because of their affiliation with the United Mine Workers of America.

Hours of Labor.

Section 2. (a) It is definitely understood that this agreement be based on an eight-hour day; eight-hour day means

eight hours work at the usual working place, exclusive of one-half hour for mid-shift lunch, six days a week when required by the operators, Sundays and specified holidays excepted. (This rule does not apply to those men whose employment requires them to work seven days per week, or for the making of necessary repairs on machinery, shafts and slopes, and other work which cannot be done when the mine is running coal. All other Sunday work to be paid for on a six-hour basis.) However, this does not prohibit engineers, rope riders, motormen and cages working the time necessary to hoist and lower the men, and in no case shall they work more than ten hours, but all such hours worked over eight shall be paid for at the scale rate on an eight-hour basis.

(b) Drivers shall work full eight hours in their respective places, and take their mules to and from the stalls, and the time for so doing shall not be included as part of the day's labor; provided that not more than ten minutes time is required in going to or returning from his working place and stable.

(c) In case of emergency, which means any unlooked
4472 for event that would tend to impede the operation of the mine the following shift, the operator shall have the right to work the men necessary to put the mine in proper condition.

Price of Powder.

Section 2. (a) The price of black powder to be $2.25 per 25 pound keg; giant powder, 30 and 40 per cent, to be $3.85 per 25 pound box; giant powder, 20 per cent, to be $3.00 per 25 pound box; fuse per 100 feet, 60 cents; 3X caps, per 100, seventy-five cents; 4X caps, per 100, 80 cents; 5X caps, per 100, $1.00; 5X caps per 25, 30 cents. Local conditions to govern the grade and make of powder to be used at each mine. When two makes of powder of the same grade are on hand the miners to have their choise.

(b) It is agreed that when by order of the mining inspector or by the passing of laws or through the unsafe condition of any mine or part of any mine it is necessary to use a permissable explosive that a three months' test be made in that mine or part of the mine during which test the proposed permissible explosive be made of the net earnings during the three months' test with the net earnings, during the previous 3 months and from the comparison a satisfactory adjustment be made, and if upon comparison it is found that the net earnings of the miners has been reduced, such loss shall be made up by the company either in price of coal or price of powder.

However, it is agreed that during the 3 months' test the company shall have the privilege to employ an educa-
4473 tional board of as many men as necessary to go around the mine and direct the proper use of the permissible explosive and that the miners shall be directed by the board in all questions in connection with the proper use of safety explosive.

Pay Day.

Section 4. (a) Pay day to be semi-monthly payment to be made on or before the first Saturday after the 15th of each month for the last half of the preceding month and on or before the first Saturday after the first of each month, for the first half of the preceding month.

(b) The operator shall furnish two days before pay day a uniform detachable statement showing in detail the earnings and deductions of each employe.

(c) All monthly deductions to be made on pay roll for first half of the month.

(d) All errors to be corrected and paid within four days after pay day if demanded.

(e) The operators agree to pay in cash at camps where no banks are located.

Doctor and Hospital.

Section 5. Present doctor and hospital arrangements to remain as at present, until amended by the district executive board.

Adjustment of Disputes and Grievances.

Section 6. Whereas, the benefits to be derived from an industrial contract depend altogether upon the fidelity with which it is carried into effect; and

4474 Whereas, it is our earnest and sincere desire that any agreement made and executed by and between the representatives of the miners of District No. 10, and the representatives of the different coal companies signing this agreement be observed and carried out in its entirety, and that all controversies arising under this contract shall be definitely settled.

It is therefore mutually agreed that in case of any local trouble arising at any time through a failure to agree between the foreman and any employe, the pit committee and the foreman are empowered to adjust it, and in case of their

disagreement, it shall be immediately referred, in writing, to the Superintendent of the operator and the Local President of the U. M. W. of A. or such persons as either may designate to represent him; and should they fail to agree; it shall then be referred, in writing, by either party, to the Commissioner of the respective operator and the District President of the U. M. W. of A. of District No. 10, or such persons as they may designate for its adjustment.

In case there should be a disagreement between the District President and the said Commissioner, the case shall be referred to a conciliation board composed of three representatives of the Washington Coal Operators' Association and the three resident officers of District No. 10, U. M. W. of A, said board to meet weekly, if necessary.

In case they fail to agree they shall prepare a joint statement in duplicate of the evidence submitted and send one to the General Manager of the respective operators and the other to the International President of the United Mine
4475 Workers of America who shall take up the case for a final settlement as speedily as possible.

In the event that the General Manager and the International President of the U. M. W. of A. fail to agree they shall have authority to select a person to decide the question in dispute; the mines to continue in operation.

Provided, however, that discharge or suspension cases shall not go beyond the concilliation board herein provided for unless mutually agreed to by the joint board.

(b) If any employe shall be discharged or suspended by the operator, and it is claimed that an injustice has been done him the pit committee with the employe in question shall take up the case with the mine foreman within three days, and in the event that they shall fail to reach a satisfactory settlement the case shall be referred to the Superintendent of the mine and the Local President or their representatives within three days.

Should they fail to reach a settlement the Superintendent and the Local President shall respectively submit the case in writing to the Commissioner of the operators, and the President of District No. 10 within five days after disagreement.

In the event of the Commissioner and the District President fail to agree the case shall be referred to the concilliation board for final disposition.

Should it be proven an employe has been unjustly discharged or suspended, he shall be reinstated with com-
4476 pensation at the scale rate for the time suspended or discharged, such compensation shall not exceed ten days.

In the event that either party fail to take up grievances in the time above specified, settlement shall be made against the party in default.

All settlements and decisions rendered hereunder shall be final and binding on all parties concerned.

Duties and Limitations of the Pit Committee.

Section 7. (a) The operators shall recognize the pit committee in the discharge of their duties as provided in this agreement.

(b) The members of the pit committee shall be employes of the mine of which they act as pit committeemen.

(c) Not more than three committeemen to serve for each mine.

(d) The pit committee in the discharge of their duties shall under no circumstance go around the mine for any cause whatever without permission from the pit boss, unless called upon by a miner or company man who may have a grievance that he has first tried to and cannot settle with the pit boss.

(e) Members of the pit committee employed as day men shall not leave their place of duty during working hours, except by permission of the operators or in cases involving the stoppage of the mine.

(f) Any pit committeeman who shall attempt to force any rule or proceeding in conflict with any provision of this contract or any other agreement made in conformity herewith may be forthwith deposed as a committeeman.

4477 When Men Shall Be Furnished By The Pit Committee.

Section 8. If any day man refuses to continue at work because of a grievance which has or has not been taken up for adjustment in the manner provided herein, and such action seems likely to impede the operation of the mine, the pit committee shall upon request of the operator, immediately furnish a man or men to take such vacant place or places at the

scale rate in order that the mine may continue at work, and it shall be the duty of any member of the United Mine Workers of America who may be called upon by the pit committee to immediately take the place assigned to him or them in pursuance hereof.

Collection of Union Dues and Assessments.

Section 9. (a) The operators agree to check off all union dues, assessments and fines from all members of the United Mine Workers of America when desired on proper individual order which shall continue during the life of this agreement. It is understood that after the pit expenses for powder, caps and fuse, rent and doctor the operator will give preference to the ordinary dues, assesments and also not to exceed $5.00 in any one pay for fines and initiation fees unless by special agreement with the operator concerned.

(b) The operator will furnish to the miners local representative a statement showing separately the total amount of dues, assessments and fines collected.

(c) In case any fine is imposed the propriety of which is questioned the amount of such fine shall be withheld by the operator until the question has been taken up for adjustment and a decision reached.

4478 (d) The operators agree that the members of the U. M. W. of A. may solicit membership in any peaceful manner but in no way shall such solicitation impede the operation of the miners and if any member or members of the U. M. W. of A. is found guilty of so doing he or they shall be suspended for one week.

(e) In no case shall any one be allowed to go from one place to another in or around the mines soliciting membership during working hours, however, the above does not prohibit the pit committee from going around the mines once each quarter for the purpose of checking up their membership.

Construction Work.

Section 10. The erection of head frames, buildings, scales, machinery, railroad switches, etc., necessary for the completion of a plant for loading all being in the nature of construction work, is to be excluded frm the jurisdiction of the U. M. W. of A. Extensive repairs to or rebuilding of same class of work shall also be included in the same exception, the employes thereon to be excluded as above, when employed on such work only.

Penalties For Impurities.

Section 11. (a) In case rock, slate, bone, clay, sulphur or other impurities are sent up with the coal by the miners, it shall be the duty of whomsoever the operators shall designate as inspector to report the same, with the estimated weight thereof, and the miner so offending shall have such weight deducted from established weight of car. For the third offense occuring within thirty days of any malici-
4479 ous or aggravated case of the first, the miner may be indefinitely suspended or discharged, said weight to be determined by the inspector designated by the operator. Any malicious or aggravared case of the first to be determined by the inspector and check-weighman and if they agree the case shall be considered closed. Should they fail to agree the impurities shall be kept as evidence, and the case taken up as provided for in Section 6.

(b) In Roslyn field where boiler house coal is docked for impurities the check-weighman or his representative shall be present when coal is unloaded.

(3). This section does not apply to pitching seams, except in the Roslyn Cle Elum field.

Penalty For Stoppage Of Work.

Section 12. (a) If an employe or employes shall cause the stoppage of work in violation of this agreement, he or they may be discharged.

(b) It shall be the duty of the operators to immediately notify the men in any entry or mine when for any reason the mine or entry is shut down for the day.

Preference Of Employment.

Section 13. In case an employe or employes are thrown out of employment the idle employe or employes shall have the option of waiting for a place in the mine where he or they were employed which shall be given him or them in their regular turn, or accepting employment in other mines at the same camp operated by the same company.

4480 Holidays to be observed.

Section 14. New Years' Day, First of April, National Flag Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day, are to be observed as holidays, also half day on November pay day, and half day on the second Tuesday in December for election of district and national officers.

Remuneration for Water.

Section 15. In all places where water accumulates, the same shall be bailed out or pumped out by the company, but if done by the miner he shall be paid at the scale rate.

Pushing Empty Cars.

Section 16. (a) The miners shall not be required to push empty cars into their places while turning rooms but empty cars shall be delivered to the end of the track by the company until the rope is in. This applies to rooms where the pitch is too steep for the men to push the cars.

(b) When turning a room the track shall be put in as soon as practicable and shall not be more than twenty feet from the face. In double rooms the rope shall be put in as soon as holed.

(c). In rooms in Roslyn where the coal is run by chutes, the company is required to put in a platform as soon as there is room for it.

Where Miners Haul Their Own Coal.

Section 17. (a) Where entrymen are required to haul their own coal they shall be paid five cents per car for a distance of 1200 feet or less. Ten cents per car for a dis-
4481 tance of 1200 feet and up to 2400 feet which shall be the maximum distance they shall be required to haul their own coal.

(b) The rates specified in paragraph (a) shall apply to miners working in Dip Mine at Roslyn, where less than eight men are employed in any one entry on any one shift.

(c) The above rate does not apply to the mines in Lewis or Thurston County where present conditions are to continue.

(d) In pitching seams where any miner purhes his car more than 300 feet in gangway he shall be compensated at the rate of five cents per car, but in no case shall the miner be required to push his car more than 600 feet.

Change Of Work.

Section 18. A miner taken from the face to drive or perform other day work shall receive the miners' scale of pay. Any other employe taken to do other work than his regular employment, shall be paid at the scale of wages that his regular employment calls for, providing it is not less than the scale for the new work, at which he is temporarily employed.

Fatal Accidents and Funerals.

Section 19. (a) In case of any employe meeting instantaneous death by accident in or around the mine the management shall immediately notify the men to suspend work for the remainder of the shift (This does not apply to such men as are required to keep the mines in proper condition), but work at the option of the operators shall be resumed
4482 the following shift and continue thereafter. In case the operator elects to operate the mine on the day of the funeral of the deceased, as above, or where death has resulted from an accident in or around the mine, then the individual miners or employes may at their option absent themselves from work for the purpose of attending such funeral but not otherwise.

(b) The operator shall keep sufficient first aid appliances at each mine according to the instruction of the state mining inspector.

Penalties for Absence from Work.

Section 20. (a) Any employ absent from work for a period of two consecutive days without first having notified the pit boss, may be suspended for a period of one week when he may be given his former working place. For the second or subsequent offense in any thirty consecutive calendar days he may be discharged.

(b) Engineers, motormen, drivers, drum men and employes whose absence would cause stoppage or work, must before absenting themselves from work properly arrange with the superintendent or pit boss for their absence, otherwise they may be discharged unless they can furnish a proper excuse.

(c) Any employe absent from work for five days without permission unless through sickness in any thirty consecutive calendar days may be discharged. Employes absent through sickness or by permission, shall be given their regular working place.

4483 Deficient Places.

Section 21. (a) All deficient; places may be driven at a price to be decided upon between the pit boss and the miners working in such place or places, provided an agreement can be reached that is satisfactory to both parties.

(b) In the event that the miner and the pit boss fail to agree on a price, the pit committee (who shall in this case

be three miners) can be called in by either party, and if it is agreed that the place is deficient, or should they fail to agree with the pit boss, the miner or miners shall be provided with another normal working place, or continue to work at the miner's scale rate.

(c) Deficient places shall mean when any abnormal condition arises which prevents the miners from averaging the miner's scale rate from pay day to pay day.

(d). It is agreed that no miner or miners shall be discharged because of their failure to agree on a price for deficient work.

Responsibility For Timbering And Duties Of Employes.

Section 22. (a) It shall be the duty of all miners to care for their working places in a proper manner. If any miner shall fail to properly timber, shoot or care for his working place, and such failure has entailed falls of slate, rock and the like, the miner whose fault has occasioned such damage shall repair the same without compensation, and if such miner fails to repair such damage he may be discharged. All other em-

ployes to give proper care to the duties to which they
4484 are assigned.

(b). Contract miners shall use due care in lowering cars, in their rooms, and when found guilty of carelessness in lowering their cars which results in damage to track or timber the miners shall repair the same without compensation.

(c) All unavoidable rock falls shall be moved by the company. When such roll is being cleaned, the men who were employed in such places shall be given another working place, if there is one vacant, or shall be given other employment at the scale rate, if possible to do so.

Definition Of The Working Place.

Section 23. (a) The definition of the working place in flat seams shall mean the space between the furthest driven point in the face and 55 feet back from that point.

(b) In pitching seams where wings are used the working place designated in Section 22 is the wing and space inside the wings.

Where breast cars are used the space inside the McGinty posts.

Miners shall have the privilege of moving the wings and McGinty posts to suit their own convenience.

Where wings or breast cars are not used in pitching seams the definition of the working place shall mean the space between the furthest driven point in the face and 55 feet back from that point.

4485

Definition Of Seams.

Section 24. It is agreed that in all places in this contract where the term flat seam is used, that in such place the regular mine cars are taken to the face of the rooms or breasts, and all other miners shall be classified as pitching seams.

Man Cars Or Man Trips.

Section 25. (a) All miners or inside laborers shall be allowed to ride in suitable cars provided by the company from the mouth of the mine or shaft to the landing on the level on which they work, and return.

(b) Starting of the shifts shall be arranged between the local union and the company.

Scales And Checkweighman.

Section 26. (a) At mines where scales are used to weigh miners' coal, arrangements shall be made by the company for keeping the same in perfect working order. At such mines each local union shall elect its own checkweighman from the employes in the same field operated by the same company.

(b) Checkweighmen shall be given work in their regular turn in the same mine where employed at the time of election when their services as checkweighmen are discontinued.

(c) The company shall make deductions for the checkweighman fund and turn the same over to the proper representative of the checkweighman fund.

(d). Where it is agreed that a checkweighman has in
4486 violation of this agreement or the state mining laws, impeded the operation of the mine he shall be deposed as checkweighman.

Night Shift Men.

Section 27. Five per cent increase over specified rates shall be allowed for men working on night shift only. This five per cent. does not apply to those who change shifts week about.

Rooms or Breasts Over 400 Feet.

Section 28. When a room or breast is driven up more than 400 feet, 50c per yard shall be paid for all yardage in excess of 400 feet.

Employes not Under the Jurisdiction of the U. M. W. of A.

Section 29. No scale of wages shall be made by the United Mine Workers of America for Mine Foreman, Mine Foreman's Assistant, Top Foreman, Company Weighman, Boss Driver, Night Boss, Fire Boss, Head Machinist, Head Boilermaker, Head Carpenter, Head Electrician and Night Watchman. The authority of the operator to hire and discharge may be delegated to the Mine Foreman, Top Foreman, Boss Driver, Night Boss and Head Machinist. (The term "Assistant Mine Foreman" shall apply only to such as are authorized to act in that capacity.) The night watchman shall be exempt when employed in that capacity only. the term "Head Carpenter" abd "Head Machinist# shall apply only to such as have charge of carpentry or machine work at one or more mines or at one or more washing plants.

Employes to Care for Mine in Case of Disagreement.

Section 30. In case of either local or general suspension of mining, either at the expiration of this contract or
4487 otherwise, the engineers, firemen and pumpmen shall not suspend work, but shall when mining is suspended, fully protect all of the company's property under their care, and operate fans and pumps and lower and hoist such men or supplies as may be required to protect the company's property and any and all coal required to keep up steam at the company's coal plants, but it is understood and agreed that the operators will not ask them to hoist any coal produced by non-union labor for shipment.

Development work.

Section 31. (a) No coal shall be loaded on idle days except for development work, and for the safekeeping of the mines. No coal shall be dumped on idle days except for these purposes.

(b) Before entries and gangways, slopes and air-courses are worked on idle days they must be double shifted. Where mines are working slack time and gangways and entries, slopes and air-courses are worked on idle days, the work shall be equally divided among men competent to do the work. Slack time shall mean when the mines work less than

18 days per month. This does not prohibit the operators from working treble shifts.

(c) The operators shall see that an equal turn is offered contract miners and that they be given a fair chance to obtain the same.

Engineers.

Section 32. No engineer shall be subject to the authority or supervision of the pit committee, but in case of any disagreement which he cannot settle with the foreman and
4488 Local president, the subject shall be taken up by the District President or his representatives and the Superintendent for adjustment. In case of their disagreement, to be taken up as provided in section 5. All engineers shall do their own firing or any other work connected with machinery assigned them by the operator, in places where it is practicable and their duties as engineers do not prohibit their so doing.

Rules in Violation of Contract.

Section 33. (a). This contract shall in no case be set aside because of any rules of any local union of the U. M. W. of A. nor shall there be any rules made controlling or affecting the operation of the mines, nor shall any change be made in the accepted rules without the operators and miners first consulting and agreeing thereto. All local rules in violation of this contract shall be null and void and no local union or group of local unions shall pass any rules in violation of this contract; neither shall any company enforce any rules in violation of this contract.

(b) All employes must obey the existing printed rules and regulations now posted at the mines. New rules and regulations affecting the terms of this contract must be mutually agreed to.

(c) No local union district officials, operator or manager shall be allowed to make new conditions until after the expiration of the specified life of this agreement, unless ratified by the district president and the operator's commissioner.

4489 Owing to the change of conditions at the American Coal Company's mines at Pittsburg, it has become necessary to change the method of work, and therefore it is agreed that a committee of four, two of whom shall be miners and two operators, be appointed to go to Spiketon, and after examination, make a satisfactory adjustment of con-

tract rates, and that after such agreement has been made, the day wage scale at these mines shall be the same as all others in district No. 10. When such an agreement is reached, it shall become a part of the joint agreement.

Day's Wage Scale.

Inside Mine.

	Miners	$ 3.80
	Timbermen	3.80
	Timbermen's Helpers	3.15
	Tracklayers	3.80
	Tracklayers' Helpers	3.15
	Motormen	3.35
	Drivers	3.35
	Parting Boys	$1.90 to 2.40
	Greasers	1.85
	Trappers	1.60
	Rope Riders	3.35
	Hoist men on Development work	3.15
	Hoist boys on Development work	2.50
	Engineers	3.40
	Cagers	3.40
	Cagers' Helpers	3.15
4490	Inside labor, not specified	$ 3.15
	Shot lighter	3.95
	Pumpman	3.15

Outside Mine.

	Engineers	$ 3.40
	Firemen	2.90
	Cagers	3.15
	Cagers' Helpers	2.75
	Stablemen, per month	85.00
	Teamsters	2.90
	Greasers	1.45

Couplers	1.60
Dumper	2.75
Blacksmiths, 1st	3.70
Blacksmiths, 2nd	3.40
Blacksmiths (Helpers	2.90
Carpenters, 1st	3.70
Carpenters, 2nd	3.15
Car Repairers	2.90
Choppers	2.90
Screeners (Men)	2.10
Screeners (boys)	1.60
Moving Picking Table (men)	2.20
Moving Picking Table (boys)	1.70
Outside Labor	2.60
Development Engineers	3.15
Machinists	3.40

4491 Northwestern Improvement Co.

Roslyn-Cle Elum Field.

The scale of prices herein provided shall include the work required to mine, shoot and load coal, and where possible, to deliver the same to the entry; to lay track in the working place, set wheel posts, move same and properly timber the working place.

Where chutes are used, the Company to build the platform and blast the rock necessary for laying switches and track, the platform to be built above the car. Miners to build chutes after the first two lengths of sheet iron have been laid by the Company.

The operator shall be required to furnish the necessary props and timber at the working place, except in chute rooms, where all timber and chute material shall be delivered at the bottom of the chute.

In entry and air courses the brushing shall be covered by the yardage price, and the entry coal shall be paid the same

as tonnage price as when the cap rock is 1w inches thick or less and is taken down.

Crosscuts to be full height of the seam and six feet wide.

Starting Time.

The man trip and the last man cage will leave the outside in time for miners and Company men to be at their working places at 7 o'clock a. m. from April 1st to September 30th, and 8 o'clock a. m. October 1st to March 31st. Drivers will have mules harnessed and hitched to trip at same
4492 hours. Quitting time for miners, Company men and drivers to be 3:30 p. m. from April 1st to September 30th, and 4:30 p. m. October 1st to March 31st. First cage will leave the shaft bottom at 3:35 p. m. from April 1st to September 30th, and 4:35 p. m., from October 1st to March 31st. Outside starting time to be 7 a. m., April 1st to September 30th, and 8 a. m., October 1st to March 31st. Triple time to be arranged to the best advantage to handle the coal. Last cage to leave the top of the shaft and starting time for man trips to be decided by trial.

Shooting Time.

Miners will not shoot at noon hour, or at any other time before 3.25 p. m., from April 1st to September 30th, and 4:25 p. m., from October 1st to March 31st. Any miner shooting before these hours shall, when reported by the Superintendent be fined $2.50 for each offense, or discharged, at the option of the Company. Special permission may be given by the Mine Foreman to shoot at noon hour.

Rents.

Five-room houses, per month	$7.50
Four-room houses, per month	6.50
Other houses, per room, per month	1.50

All employes shall have house coal for their own consumption delivered at $2.25 per ton.

Mining Rates.

At Roslyn, No. 5 and other openings on the Roslyn-Cle Elum vein, where 12 inches or less of cap rock is taken down, according to present Roslyn practice, per ton of 2,240 pounds,	$1.02

4493	Where more than 12 inches of cap rock is taken down	1.05
	At Cle Elum, No. 5 and other openings on the Roslyn-Cle Elum vein, where cap rock is left up, according to present Cle Elum practice, per ton of 2,240 pounds	.95
	Chute work on Roslyn-Cle Elum vein, per ton of 2,240 pounds	.92
	Crosscuts in rooms, per yard	1.15
	Entry price, 14 ft. wide, per yard	2.90
	Entry price, 14 ft. wide, cap rock up, at Cle Elum	1.85
	Entry price, 8 ft. wide, per yard	3.40
	Down-hill cross-cuts, under 40 ft. per yard	1.60
	Down-hill, crosscuts, over 40 ft. per yard	2.50
	Up-hill crosscuts, under 50 ft. per yard	1.60
	Up-hill crosscuts, over 50 ft. per yard	2.50
	Room turning, 20 ft.	8.50
	Room turning, 40 ft.	10.50
	Slope sinking, per yard	3.70

Ravensdale.

The scale of prices herein provided shall include the work required to mine, shoot and deliver coal into the top end of the chute (or into the cars on gangway in temporary chute work), to properly timber the working place, build chutes, ladders, set center posts and build brattice in the chute.

The operator will furnish all timber at the nearest crosscut, except chute material, which will be furnished at the first crosscut.

4494 In the McKay all material will be delivered at the nearest crosscut to the face.

In pillar work the miner will build all brattices.

First crosscuts must be six feet wide, other crosscuts four feet wide and height of chute work.

Last man car for morning shift leaves the top at 6:55 a. m. and the first man car at end of shift leaves the bottom at 3:35 p. m.

Afternoon shift last car leaves top at 3:50 p. m. and first car at end of shift leaves bottom at 12:30 a. m. First level will shoot at 9:15 a. m., 12:00 and 3:15 p. m., 6:15 p. m., 9:30 p. m., and 12:15 a. m. Second level will shoot at 10:30 a. m. 3:15 p. m., 8:15 p. m. and 12:15 a. m. Winter schedule 30 minutes later.

Rents.

Five-room houses, per month	$7.50
Four-room houses, per month	6.50
Other houses, per room, per month	1.50

All employes shall have house coal for their own consumption at the following rates:

Coal per ton, delivered	$2.00

Nut coal to be provided when it is available.

No. 3 Seam.

Gangway, 6 ft. wide, collar 6½ ft. high, per yard	$ 8.30
Chute, 5 ft. wide, height of seam, brattice and manway	2.50
Crosscuts, 5 ft. wide, height of seam, no timber	2.60
Crosscuts, 4	
4495 Crosscuts, 4 ft. wide, 4 ft. high, no timber	$ 2.00
Crosscuts between breasts	1.70
Coal from breasts, including building of brattice, chute, and manway, per car	.58
Timbering first crosscut, timber 6 in. diameter, per set	.80
Laying sheet iron, per lineal yard	.30
Temporary chute	1.60

Miners on pitch to deliver coal in chutes. Company shall buck coal in main chute where pitch is too light for coal to run free.

No. 5 Seam.

Gangway, 6 ft. collar 6-½ ft. in clear, per yard	$ 8.70

	Gangway, 6 ft collar 6 ft. in clear, lifting 4 ft. rock, measured from top of rail.	10.45
	Chutes, 6 ft. wide, not les than 5 ft. high, center post, brattice, sheet iron and manway	2.90
	First crosscut, 6 ft. wide, not less than 5 ft. high, no timber	3.40
	Other crosscuts between chute, 4 ft. wide, 4 ft. high, no timber	2.90
	Other crosscuts between breasts, 4 ft. wide, 4 ft. high, no timber	1.90
	Breast, miner to build brattice, sheet iron and manway, per car	.58
	Miner when working pillars by day work, par day	4.00
4496	Timbering in first crosscut, timber 6 in. diameter, per set	$ .80
	Temporary chute	1.60

Miners on pitch to deliver coal in chutes. Company shall buck coal in main chute where pitch is too light for coal to run free.

No. 9 Seam.

Gangway, 5½ ft. collar in clear, 6 ft. high, per yard	$12.00
First crosscuts, 6 ft. wide by height of seam, no timbering	2.90
Crosscuts between chutes, 4ft. wide, height of seam	2.02
Chute, 6 ft. wide by height of seam	2.02
Tempory chute, 6 ft, wide, height of seam	2.90
Chute building with brattive, per yard	.75
Laying sheet iron, per yard	.30
Brattice, per yard	.30

Miners on pitch to deliver coal in chutes. Company shall buck coal in main chute where pitch is too light for coal to run free.

McKay Seam.

Gangway, 6 ft. collar, 6½ ft. in clear, per yard	$9.30

Chutes, 10 ft. wide, timbered 4 pc. set, lagged including brattice, sheet iron and manway, per yard 4.05

4497 Chutes, 8 ft. wide, timbered 4 pc. set, lagged, including brattice, sheet iron and manway, per yard $3.45

Chutes, 6 ft. wide, timbered 4 pc, set lagged, including brattice, sheet iron and manway, per yard 2.90

First crosscut, 6 ft. wide, height of seam, timbered, 3 pc. set, lagged 3.15

Crosscuts, 4 ft. wide, 4 ft. high, 3 pc. set, lagged 2.65

Pillars, per yard 3 ft. wide .70

Brattice building, per yard .20

Miners on pitch to deliver coal in chute. Company shall buck coal in main chute where pitch is too light for coal to run free.

Melmont No. 3 Seam.

Gangway, 6½ ft., collar 6½ ft. high, 9 ft. legs, per yard $9.25

Counter, 5 ft. high, 6 ft. wide in the clear timbered and lagged, per yard 3.45

Crosscuts, 4 ft. wide, 4 ft. high in the clear, timbered and lagged 2.10

Chutes, temporaries, including building chute, timbering and bulkhead 2.30

Breasts, 18 ft. wide, thickness of coal, cog built each side of chute, 6 ft. apart up the pitch, lagged between cogs 4.75

Pillars, 90 sq. ft., thickness of seam 5.25

4498 Timber delivered at working place or nearest crosscut to the working place.

Starting time: Last man car for morning shift leaves the top at 7:55 a. m., and the first man car at the end of the shift leaves the bottom at 4:35 p. m.

Afternoon shift—Last car leaves top at 4:50 p. m., and first car at end of shift leaves bottom at 1:30 a. m.

The Roslyn Fuel Company.

Regulations regarding shooting time to remain as at present.

All employes shall have house coal furnished for their own use, delivered in vicinity of Beekman or Ronald, at $2.25 per ton.

Where cap rock can be held with safety to life and limb, the same shall be kept up, and the price per ton of 2,240 pounds shall be 95 cents.

Where cap rock of less than 12 inches in thickness is taken down, the price shall be $1.02.

Proper care shall be taken in propping all working places in a workmanlike manner.

Mining Rates, No. 1 Mine.

Mining coal, per ton of 2,240 pounds	$ .95
Crosscuts in rooms, per yard	1.15
Entry price, 8 ft. wide, per yard,	3.40
Entry price, 8 ft. wide, brushed for mules only, and not over 6 inches	2.60
Entry price, 14 ft. wide, per yard, brushing gobbed	2.90
Down-hill crosscuts, under 40 ft. per yard	1.60
4499 Down-hill crosscuts over 40 feet, per yard	$2.50
Up-hill crosscuts, under 50 ft. per yard	1.60
Up-hill crosscuts, over 50 ft. per yard	2.50
Room turning, 20 ft. long	8.50
Room turning, 40 ft. long	10.50
Room turning, 30 ft. long	9.50
Slope sinking, per yard	3.70

No. 2 Mine.

The Roslyn Fuel Company agree to pay a mining rate of Ninety-five Cents (95c) per ton of twenty-two hundred and forty (2240) pounds of coal at their No. 2 mine at Beekman, Washington, with the understanding that all coal is to be mined in the clear on the bottom as is now practiced and that the miners shall throw back all rock or binders occurring in the coal and shall take care of any bone which may fall from the roof and gob the same and keep his room or working place in a safe and good condition. All general provision and yardage rates shall be the same as now governing mine

No. 1, with the exception that for air courses the rate shall be Two Dollars and Sixty Cents ($2.60) per yard brushed high enough for mule, instead of being brushed six inches, as is called for in No. 1 yardage rates. The Company reserves the right to employ and shoot all coal with shot lighter at any time they deem advisible.

Pacific Coast Coal Company.

House rent to remain as at present.

Electric light charges, 50 cents per month per 16 c. p. lamp.

4500 Coal delivered, $3.00 per ton of 2,000 pounds.

When employes own their houses, $1.00 ground rent per month for lot (5,000 square feet) for residential purposes.

When employes own their houses and water is furnished by the Company, water rent is 50 cents per tap per month.

Tool sharpening, except saws and axes, free.

Repairing of tools, when desired by employees, at cost, which is wages of mechanics plus 10 per cent. added for use of coal and tools.

Company to place grindstones for miners' use at each mine.

Miners on pitch to deliver coal in chutes. The Company shall buck coal in main chutes, where pitches are too light for coal to run free. The angular chutes in pillar work are termed main chutes.

Gem Mine.

Gangway, 6 ft. collar in clear, including timbering, laying track and rock to be lifted 4 ft. above upper rail, per lineal yard	$10.00
Chutes, 6 ft. wide and 5 ft. high, per lineal yard	3.15
Chutes, 6 ft. wide and height of seam, per lineal yard	2.10
Crosscut, 5 ft. wide in clear, per lineal yard	2.10
Breasts, 24 ft. wide, timber to be delivered on gangway, per lineal yard	5.70
Chute building with brattice, timber to be delivered on gangway, per lineal yard	.80

4501 Pillars 1 ft. wide, timber to be delivered on gangway, per lineal yard $ .16

Where pitch is less than 35 degrees, $2.00 extra per lineal yard on gangway.

Mine No. 14 Little Seam.

Gangway, 14 ft. wide, in coal, 6 ft. collar in clear, including timbering, making ditch, laying track and rock to be lifted 4 ft. above upper rail, per lineal yard $10.00

Breasts, 30 ft. wide, timber delivered at end of manway, per lineal yard 5.25

Skips, 30 ft. wide, timber delivered at end of manway, per lineal yard 4.20

Skips, 20 ft. wide, timber delivered at end of manway, per lineal yard 2.65

Skips, 15, ft. wide, timber delivered at end of manway, per lineal yard 2.75

Chutes and crosscuts, 6 ft. wide, (1st crosscut), timber delivered on gangway, per lineal yard 3.15

Crosscuts, between breasts, 4 ft. wide in clear, timber delivered at end of manway, per lineal yard 2.60

When cross cuts between breasts are driven over 35 ft. from either side, 50 cents additional price per yard for each additional 21 ft. driven.

Relief sets in chutes and first crosscut with lagging, timber delivered on gangway, per set 1.05

Relief sets in crosscut between breasts with lagging, timber delivered at end of manway, per set .80

4502 Company to load all coal from chutes and first crosscuts.

Miners to deliver coal in chutes.

Mine No. 14 Big Seam.

Gangways, 21 ft. wide in coal, including timbering, laying track and rock to be lifted 4 ft. above upper rail, per lineal yard $12.65

Gangways, with 6 ft. wide collar in clear, including timbering, making ditch, laying track and rock to be lifted 4 ft. above upper rail, per lineal yard 10.00

Breasts 30 ft. wide, timber to be delivered at end of manway, per lineal yard 7.90

Breasts, 20 ft. wide, timber to be delivered at end of manway, per lineal yard 5.80

Pillars, 1 ft. wide, timber delivered at end of man way, per lineal yard .21

Chutes, 6 ft. wide in clear, timber delivered on gangway, per lineal yard 3.15

Chutes, 10 ft. wide, timber delivered at end of manway, per lineal yard 3.70

Crosscut, 4 ft. (1st crosscut) timber delivered on gangway, per lineal yard 3.15

Crosscut, 4 ft. wide, in clear, timber delivered at end of manway, per lineal yard 2.60

When crosscuts between breasts are driven over 35 ft. from either side, 50 cents additional price per lineal yard for each additional 21 ft. driven.

4503 Relief sets of timber in breasts, timber delivered at end of manway, per set $1.05

When small seam is worked out first, 30 ft. breast, per lineal yard 9.00

When small seam is worked out first, 20 ft. breast, per lineal yard 6.30

When small seam is worked out first, 10 ft. chute, per lineal yard 4.20

Company to load all coal from chute and first crosscut.

Miners to deliver coal in chute.

Morgan Slope Little Seam.

Gangway, 6 ft. collar in clear, paid per car for coal, including timbering, making ditch, laying track and rock to be lifted 4 ft. above rail, per lineal yard $8.00

Chute, 6 ft. wide, paid per car for coal, timber delivered on gangway, per lineal yard 1.60

Crosscut, 6 ft. wide (1st crosscut), paid per car for coal, timber delivered on gangway, per lineal yard 1.60

Crosscuts between breasts, 4 ft. wide in clear, paid per car for coal, timber delivered at end of manway, per lineal yard 1.60

When crosscuts between breasts are driven over 35 ft. from either side, 50 cents additional price per yard for each additional 21 ft. driven.

4504 Relief sets of timber in chutes and first crosscuts with lagging, timber delivered on gangway, per set, $1.05

Relief sets of timber in breasts with lagging timber delivered at end of manway, per set 1.05

Relief sets of timber in crosscuts between breasts, timber delivered at end of manway, per set .80

Price for car of coal the same as in big seam with the same conditions as to thickness of coal to govern.

Company to pay one sjoveler for each two miners working in gangways, also in breasts and pillars, when coal is to be loaded in breast cars. If only one miner is in, miners to pay half of shoveler's wages; if shoveler is not in, miner to receive proportional part of shoveler's wages; one miner half, two miners all.

Company to load coal from chute and first crosscut.

Miners to delliver coal in chute.

Morgan Slope Big Seam.

Gangways, 21 ft. wide, 5 ft. collar in clear, including timgering, laying of track, and rock to be lifted 4 ft. above upper rail, paid per car of coal, per lineal yard $9.00

Gangway, 6 ft. collar in clear, including timbering, making ditch, laying track, and rock to be lifted 4 ft. above upper rail, paid per car for coal per lineal yard 8.00

Breasts, 20 to 30 ft. wide, paid per car for coal, timber delivered at end of manway.

Pillars, paid per car for coal, timber delivered at end of manway.

4505 Chutes, 6 ft. wide, paid per car for coal, timber delivered on gangway, per lineal yard $1.60

Chutes, 10 ft. wide, paid per car for coal, timber delivered at end of manway, per lineal yard 1.05

Crosscuts, 6 ft. wide (1st crosscuts), paid per car for coal, timber delivered on gangway, per lineal yard 1.60

Crosscuts between breasts, 4 ft. wide, in clear at end of manway, per lineal yard 1.60

When crosscuts between breasts are driven over 35 ft. from either side, 50 cents additional price per yard for each additional 21 ft. driven.

Chute building, one width sheet iron, material delivered at end of manway, per lineal yard .30

Chute building, two widths sheet iron, material delivered at end of manway, per lineal yard .60

Relief sets in breasts and chutes, timber delivered at end of manway, per set 1.05

Coal from gangways and breasts when seam is 5 ft. and over, per car .52

Coal from gangways and breasts when seam is under 5 ft., per car .64

Coal from gangways and breasts when seam is under 4 ft., per car .74

Coal from pillars when seam is 5 ft. and over, per per car .42

4506 Coal from pillars when seam is under 5 ft. per car .52

Coal from pillars when seam is under 4½ ft. per car .64

Company to pay one shoveler for each two miners working in gangways; also in breasts and pillars, when coal is to be loaded in breast cars.

When only one miner is in, miners to pay half of shoveler's wages; when shoveler is not in, miners to receive proportionate part of shoveler's wages; one miner half, two miners all.

Company to load coal from chutes and first crosscuts.

Miners to deliver coal in chute.

Lawson Mine.

Gangway, including timbering, making ditch, laying track and rock to be lifted 4 ft. above upper rail, paid per car for coal, per lineal yard	$6.30
Chutes, 6 ft. wide, timber delivered on gangway, per lineal yard	3.70
Chutes, 10 ft. wide, timber delivered on gangway, per lineal yard	4.50
Brattice, timber delivered on gangway, per lineal yard	.30
Chute guilding with sheet iron, material delivered on gangway, per lineal yard	.75
Crosscuts. 5 ft. wide, timber delivered on gangway, per lineal yard	3.15
Widening and timgering in first crosscuts, timber delivered on gangway per lineal yard	1.85
4507 Crosscuts, 4 ft. wide in clear, timber delivered on gangway, per lineal yard	2.60
Relief sets in chutes and ctosscuts, timber delivered on gangway, per set	1.05
Pillars, 1 ft. wide, timber delivered at end of manway, per lineal yard	.28
Carrying props to pillars and breasts, timber delivered on gangway, per prop	.11
Relief sets in breasts and chutes, timber delivered on gangway, per set	1.05
Coal per car when seam is 4 ft. and over, in gangways and breasts	.68
Coal per car when seam is less than 4 ft. in gangways and breasts	.80
Boiler coal in gangways, per car	.30

Company to load coal from chutes and first crosscuts.

Miners to deliver coal in chutes.

Coal Creek Mine Muldoon Seam.

Breasts, 30 ft. wide, including timbering, timber to be delivered on gangway, per lineal yard	$6.00

	Breasts, 50 ft. wide, including timbering, timber to be delivered on gangway, per lineal yard	10.10
	Chute, 10 ft. wide, including timbering, timber delivered on gangway, per lineal yard	3.50
4508	Chute, 7 ft. wide, including timbering, timber delivered on gangway, per lineal yard	2.85
	Pillars, 1 ft. wide, including timbering, timber to be delivered on gangway, per lineal yard	.19
	Crosscut, 4 ft. wide in clear, including timbering, timber delivered on gangway, per lineal yard	2.20
	Chute building with 3 posts and 10 ft. collar, timber delivered on gangway, per lineal yard	1.60
	Chute building, with 2 posts, timber delivered on gangway, per lineal yard	1.05
	Chute building, with 1 post, timber delivered on gangway, per lineal yard	.80
	Post in crosscut, with lagging, timber delivered on gangway, per post	.25
	Wing and battery post, timber delivered on gangway, per post	.50
	Relief sets in chutes and breasts, timber delivered on gangway, per set	1.60
	All rimbering, where timber is packed by miners, paid double above 400 ft, above gangway.	
	When breasts are worked on car rate, price per car of coal	.74

Coal Creek Mine No. 4 Seam.

	Breasts 25 ft. wide, including timber timbering, delivered on gangway, per lineal yard	$ 5.80
4509	Chutes, 10 ft. wide, including timbering, timber delivered on gangway, per lineal yard	3.15
	Chutes, 7 ft. wide, includint timbering, timber delivered on gangway, per lineal yard	2.85
	Crosscuts, 4 ft. wide in clear, including timbering, timber delivered on gangway, per lineal yard	2.20
	Pillars, 1 ft. wide, including timbering, timber delivered on gangway, per lineal yard	.19

Chute building, with 3 posts and 10 ft. collar, timber delivered on gangway, per lineal yard	1.60
Post in crosscut, with lagging, timber delivered on gangway, per post	.25
Wing and battery post, timber delivered on gangway, per post	.50
Relief sets in chutes and breasts, timber delivered on gangway, per set	1.60
All timbering, where timber is packed by miners, paid double above 400 ft. above gangway.	
When breasts are worked on car rate, price per car coal	.80

Coal Creek Mine No. 3 Seam.

Chutes, 10 ft. wide, per lineal yard	$ 3.70
Chutes 7 ft. wide, per lineal yard	2.90
Chute building, with 3 posts and 10 ft. collar, timber, delivered on gangway per lineal yard	1.60
Chute guilding, with 2 posts, timber delivered on gangway, per lineal yard	1.05
4510 Chute building, with 1 post, timber delivered on gangway, per lineal yard	.80
Relief sets in chutes, timber delivered on gangway, per set	1.60
Post in crosscut, with lagging, timber delivered on gangway, per podt	.25
Batery and wing posts, timber delivered on gangway, per post	.50
Pillars, 1 ft. wide, timber delivered on gangway, per lineal yard	.19

All timbering, where timber is packed by miner, paid double above 400 ft. above gangway.

Coal Creek No. 2 Seam.

Breast, 20 ft. wide, including timbering, timber delivered on gangway, per lineal yard	$5.70
Pillar, 1 ft. wide, including timbering, timber delivered on gangway, per lineal yard	.21

	Chutes, 10 ft. wide, including timbering, timber delivered on gangway per lineal yard	3.80
	Chutes, 7 ft. wide, including timbering, timber delivered on gangway, per lineal yard	3.15
	Crosscuts, 4 ft. wide, in clear, including timbering, timber delivered on gangway, per lineal yard	2.55
	Chute building, with 3 posts and 10 ft. collar, timber delivered on gangway, per lineal yard	1.60
4511	Chute building, with 2 posts, timber delivered on gangway, per lineal yard	1.05
	Chute building, with one post, timber delivered on gangway, per lineal yard	.80
	Post in crosscut, with lagging, timber delivered on gangway, per post	.25
	Wing and battery post, timber delivered on gangway, per post	.50
	Relief sets in chutes, timber delivered on gangway, per set	1.60

All timbering, where timber is packed by miner, paid double above 400 ft. above gangway.

Burnett Mine.

Conditions at present, and all deficient work to be made up to scale rate.

Prices Of The Wilkeson Coal & Coke Co.

	Price Per yard.
East 2 gangway, 6½ ft. collar, 9½ ft. spread, 6 ½ ft. clear of the rail, timbers every 5 ft. ties 2 ft. track laid	$ 9.75
Counters, all in coal, 6 ft. high or 30 ft. area, timbers set every 5 ft.	2.30
Top counters, 6 ft. in clear above rail, 5 ft. wide, all in coal, timbers every 5 ft. in clear	3.15
Flat crosscuts, 4x4, timbers every 5 ft.	1.80
Angle chutes and crosscuts, 4x4, timbers every 5 ft.	1.70

	Breasts or chutes, timbered 8 ft. in clear, collars with legs every 5 fy. centered post brattices,	
4512	steps and braces, up and down pitch and cross-ways	3.15
	Pillars, 90 sq. ft.	4.20
	South 3 and East 3. Counters, all in coal, 6 ft. high or 30 ft. area, timbers set every 5 ft.	2.55
	Top counters, 6 ft. in clear above rail, 5 ft. wide, all in coal, timbers every 5 ft. in clear	6.35
	Flat crosscuts, 4x4, timbers every 5 ft.	2.10
	Chutes, as now driven	2.10
	Pillars, 90 sq. ft.	4.75
	South 2: Counters, all in coal 6 ft. high or 30 ft. area, timbers set every 5 ft.	2.30
	Top counter, 6 ft. in clear above rail, 5 ft. wide, all in coal, timbers every 5 ft. in clear	5.05
	Flat crosscuts, 4x4, timbers every 5 ft.	1.90
	Chutes, 4x4, inside, as now driven	1.90
	Medium-sized counter, as now being driven	3.15
	Pillars, 90 sq. ft.	4.75

Wilkeson Coal & Coke Co.

Coke Ovens.

Prices as follows:

	For drawing 10,000-lb. charge	$1.05
	do 11,000-lb. charge	1.15
	do 12,000-lb. charge	1.25
	do 13,000-lb. charge	1.35
	do 14,000-lb, charge	1.45
4513	For forking 10m000 lb. charge	.42
	do 11,000-lb. charge	.44
	do 12,000 lb. charge	.46
	do 13,000 lb. charge	.48
	do 14,000 lb. charge	.50

Leveling, per oven	.15
Charging, per day	2.60
Common Labor, per day	2.60

Carbon Hill Coal Co.

Local Conditions.

Electric light charges, 50 cents per month per 16 c. p. lamp.

Coal delivered, $3.50 per ton of 2,240 pounds.

House rent to remain as at present.

When employes own their houses, $2.00 ground rent per month for residential purposes

When employes own their houses and water is furnished by the Company, water rent is $1.00 per month per tap

Tool sharpening, except saws and axes, free.

Repairing of tools when desired by employes, at cost. Miners to furnish their own tools.

In breasts where cogs are put in, 6 cogs to the block shall be required.

All mines not specified to be on day wage.

Coke oven prices to be the same as at Wilkeson. Employes pulling ovens shall be required to pull coke from the ovens and load same in cars.

	Timber fallers, Buckers and Splitters	$3.00
	Teamsters	2.90
4514	Barkers, Swampers	$2.60

Mine No. 1 Slope.

Breast, 21 ft. wide (timber and sheet iron included)	$4.20
Chute and crosscut, 4 ft. wide, height of vein	1.90
Counter gangway, 6 ft. wide, height of vein (includes timbering)	3.20
Pillars, 90 sq. ft. (includes timbering)	3.25
Gangway, in its present condition.	
Ties every 2 ft. apart and track laid	12.00

Contracts.

Mine No. 1 Slope.

Inside of Second Fault 4th Level.

Gangway in its present condition—Ties every 2 feet center; track laid and sets, timber, $16.00 per yard.

Breasts, 21 feet wide, 6 cogs to the block, posts, sets, and sheet irojn when required, $5.00 per yard.

Breasts, 18 feet wide, 6 cogs to the block, posts, sets, and sheet iron when required, $4.75 per yard.

Breasts, 15 feet wide, 6 cogs to the block, posts, sets, and sheet iron when required, $4.50 per yard.

Counter gangway, 6 feet wide, height of vein, sets every 5 feet, $3.75 per yard.

Chutes and crosscuts, 4 feet wide, height of vein $2.00 per yard.

Pillars, 90 square feet, includes timbering, $3.70 per yard.

4515 Cogging in small seams, $1.30 per yard.

Mine No. 5 South.

	Per Yard
Gangway 6 ft. collar, 6½ ft. from rail, ties 2 ft. apart, and track	$11.00
Pillars, 90 sq. ft. (timbering included)	4.50
Chutes and crosscuts, dry, 4 ft. wide, height of coal	1.70
Chutes and crosscuts, wet, 4 ft. wide, height of coal	1.90
Counter gangway, 6 ft. wide, height of coal	2.65

Mine No. 6.

	Per Yard
Breast, 21 ft. wide (timbering included)	$6.00
Pillars, 90 sq. ft. (timbering included)	5.00
Chutes and crosscuts, 4 ft. wide, thickness of coal	2.10
Counter gangway, 6 ft. wide, height of coal (timber included	3.50

Mine No. 4 North.

	Per Yard
Breasts, (timbering included)	$5.30
Pillars, 90 sq. ft. (timbering included	5.30
Counter gangway, 6 ft. wide, height to White Rock (timbering included)	2.90
Chutes and crosscuts, 4 ft. sq.	1.70

4516 North One Slope.

	Per Yard
Gangway, all in coal	$ 9.75
One shot in rock, collar 6 ft. in clear, 9 ft. spread, 6½ ft. off rail, ties every 2 ft. apart, track laid	11.00
Breast, 18 ft. wide (including timbering and sheet iron)	6.30
Chutes and crosscuts, 4 ft. wide, 5 ft. high	1.90
Counter gangway, 6 ft. wide, 6 ft. high (timbering included)	3.20
Pillars, 90 sq. ft. (timbering included	4.75

In case any miner does not make the scale wage at the above prices he will be amde up to not less than the miners' scale rate as per contract.

Washington Union Coal Co.

Mining Rates at Hannaford, Mine.

Pick mining, 5 feet or over 52c per ton of 2,000 lbs. R. M.

Cross cuts in rooms	$1.80 per yard.
Entry work	2.50 per yard.
Entry crosscuts	2.00 per yard.

In turning rooms, 10 feet to constitute width for the first 12 feet. Above 12 feet to be opened gradually.

Slope sinking to be paid at $3.00 per yard if wet. If it takes a rise, to be paid same as entry.

House rent $2.00 per room.

Water $1.00 per month.

Coal for employes as at present, $2.00 per ton, delivered.

Mining conditions to remain as at present.

4517 Hannaford Mine Wage Scale.

Inside.		
Miners		$ 3.80
Timbermen		3.80
Timbermen's Helpers		3.15
Trackmen		3.80
Trackmen's helpers		3.15
Drivers		3.35
Parting boys	$1.90 to	2.40
Greasers		1.85
Trappers		1.60
Rope riders		3.35
Spraggers		2.55
Inside laborers, not specified		3.15
Couplers		1.85
Outside.		
Rope riders		4.15
Hoisting engineers		3.40
All other engineers		3.40
Blacksmiths, 1st		3.70
Tool sharpeners		3.40
Blacksmith's helpers, 1st		2.90
Carpenters, 1st		3.70
Car repairers		2.90
Slate pickers		2.20
Firemen		2.90
Outside labor, not classified		2.60
Dumpers		2.75

4518 Occidental Coke & Coal Company.

Day's Wage Scale.

Inside Mine.

Miners		$ 3.80
Timbermen		3.80
Timbermen's helpers		3.15
Tracklayers		3.80
Tracklayers' helpers		3.15
Motormen		3.35
Drivers		3.35
Parting Boys	$1.90 to	2.40
Greasers		1.85
Trappers		1.60
Rope riders		3.35
Hoist Men on Development Work		3.15
Hoist Boys on Development Work		2.50
Engineers		3.40
Cagers		3.40
Cager's helpers		3.15
Inside Labor, not specified		3.15
Pumpman		3.15
Shot Lighter		3.95

Outside Mine.

Engineers		3.40
Firemen		2.90
Cagers		3.15
Cagers' helpers		2.75
Stablemen, per month		85.00
Teamsters		2.90
4519 Couplers		1.60
Greasers		1.45

Dumper	2.75
Blacksmiths, 1st	3.70
Blacksmiths, 2nd	3.40
Blacksmiths' helpers	2.90
Carpenters, 1st	3.70
Carpenters, 2nd	3.15
Car repairers	2.90
Choppers	2.90
Screeners (Men)	2.10
Screeners (boys)	1.60
Moving Picking Table (Men)	2.20
Moving Picking Table (Boys)	1.70
Outside labor	2.60
Development engineers	3.15
Machinists	3.40
Washerman	2.90

Conditions.

The scale prices herein provided shall include the work required to mine, shoot and deliver coal into chute, to properly timber the working places, set center piece, build brattice and build chute from first cross-cut up and to build the temporary chute.

The Company to build the permanent chute to first cross-cut and the driver to load the coal from the temporary chute.

Tool sharpening, except saws and axes, free.

4520 Repairing of tools when desired by employes at cost, which is wages of mechanics, plus ten per cent added for use of coal and tools.

Company to place grindstone for miners' use at each mine.

Shift Time.

Miners and Company men will be at their working places at 7:00 o'clock A. M. from April 1st to September 30th, and the quitting time during this period will be 3:30 P. M. From Oc-

tober 1st to March 31st miners and Company men will be at their working places at 7:30 A. M. Quitting time for this period, 4:00 P. M., taking one-half hour for noon.

Drivers will have mules harnessed and hitched to trips at same hours and the quitting time for miners. Company men and drivers will be the quitting time stated above.

Shooting time from April 1st to September 30th, 11:00 A. M. and 3:15 P. M. From October 1st to March 31st, thirty minutes later than above time.

Timber.

The operator will furnish all timber at nearest cross-cut.

Cross-Cuts.

First cross-cut must be six feet wide and other cross-cuts four feet wide and height of chute work.

Rents.

	Five-room houses, per month	$7.50
4521	Four-room houses, per month	6.50
	Other Houses, per room per month	1.50

The above for houses now at mines with the understanding that if more modern houses are built the rent per month to be arranged between the Company and the Local Union.

Coal for Employes.

All employes living in Company houses at the mines shall have house coal for their own consumption at the following rates:

$3.00 per ton of 2,000 pounds delivered.

Employes living at Palmer or Cumberland can have their coal for their own consumption at $2.25 at the bunkers f. o. b. cars for shipment to either of the above places, they to pay the freight, or $2.25 at bunkers, they to do their own hauling.

No. 2 Vein.

Gangway, 5½ ft. collar, 8½ ft. spread, 6½ ft. from top of rail to underneath side of the collar, including timbering, lagging, lifting of 3 ft. of rock, laying of track and making ditch, $6.50 per yard. Coal 68c per car.

Chutes to first cross-cut, 6 ft. wide, including timbering, $1.75 per yard.

First cross-cut, 6 ft. wide, including timbering, $1.75 per yard.

Chute from first cross-cut, 6 ft. wide, including building of chute, both sides gattrice, timbering with four-piece set and sheet iron were necessary, $1.60 per yard.

Cross-cuts above first cross cut, four feet wide, including timbering, $1.75 per yard.

4522 Chute coal, per car, 68c.

Pillar Coal, per car, 68c.

Foot Wall Vein No. 3.

Chute, $3.45 per yard.

First Cross-cut, $3.45 per yard.

Other cross-cuts, $2,83 per yard.

Conditions of timber same as above; Company to receive the coal without further compensation.

Hanging Wall, Vein No. 3.

Pillar Coal, 68c per car.

Vein No. 6.

Gangway, driven as at present, lifting from four to five feet of rock on upper side, laying track and making ditch	$6.25
Coal per car extra	.65
Chutes to first crosscut, also first crosscut, inclueing setting posts in center of chute six feet apart on upper side of cross-cut, two or three lagging behind every six feet along cross cuts, to be six feet wide by height of vein	1.40
Cross-cuts between breasts to be six feet wide by height of vein	1.00
Coal from chutes, crosscuts and breasts	.65
Coal from pillars	.60

Timbering in breasts and other work except building of cogs to be covered by the car price. Company to deliver timber opposite the last crosscut in breasts and pillars.

4523 Mendota Coal & Coke Co.

Day's Wage Scale.

Inside Mine.

Miners		$ 3.80
Timbermen		3.80
Timbermen's Helpers		3.15
Tracklayers		3.80
Tracklayers' Helpers		3.15
Motormen		3.35
Drivers		3.35
Parting Boys	$1.90 to	2.40
Greasers		1.85
Trappers		1.60
Rope Riders		3.35
Hoist Men on Development Work		3.15
Hoist Boys on Development Work		2.50
Engineers		3.40
Cage5s		3.40
Cagers' Helpers		3.15
Inside Labor, not specified		3.15
Shot Lighter		3.95
Pumpman		3.15

Outside Mine.

Engineers		3.40
Firemen		2.90
Cagers		3.15
Cagers' Helpers		2.75
Stablesmen, per month		85.00
Teamsters		2.90
5424 Couplers		1.60
Greasers		1.45
Dumper		2.75

Blacksmith, 1st	3.70
Nlacksmiths, 2nd	3.40
Blacksmith' Helpers	2.90
Carpenters, 1st	3.70
Carpenters, 2nd	3.15
Car Repairers	2.90
Choppers	2.90
Screeners, (men)	2.10
Screeners (boys)	1.60
Moving Picking Table (Men	2.20
Moving Picking Table (Boys)	1.70
Outside Labor	2.60
Development Engineers	3.15
Machinists	3.40

Conditions.

The scale of prices herein provided shall include the work required to mine, shoot, and load coal, and to deliver the same to the entry; to lay track in the working place, set wheel posts, mofe same and properly timber the working place.

Starting Time.

Miners and Company men shall be at their working places st seven o'clock A. M. from April 1st to September 30th; and eight o'clock A. M. from October 1st to March 31st. Drivers will have mules harnessed and hitched to trip at same
4525 hours. Quitting time for miners and Company men to be 3:45 from April 1st to September 30th, and 4:45 from October 1st to March 31st. Outside starting time to ge same as above. Tipple time to be arranged to the best advantage to handle coal. Forty-five minutes to be taken for mid-shift.

Shooting Time.

Miners will not shoot at noon hour or at any other time before 3:40 P. M. from April 1st to September 30th, and 4:40 P. M. from October 1st to March 31st. Any miner shooting before these hours, shall, when reported by the Superintendent, be fined $2.50 for each offense, or discharged at option

of Company. Special permission may be given by Mine Foreman to shoot at noon hour.

Tools.

Miners will provide their own ax and saw; other tools will be paid for by the miner when received from the Company, but when returned to the Company's office or place designated by the Company at Mendota, the miner will be refunded ninety per cent of the amount paid, providing tools are in fair condition; ten per cent being retained to cover wear and tear of tools. Miners will be held responsible for breakage of tools and will repair same; and tools returned in other than reasonable condition will be paid for according to valuation.

Duties Of Miners.

The scale of prices herein provided shall include the work required to mine, shoot and load coal, and when pos-
4526 sible, deliver same to the entry, to lay track in working place, set wheel posts, move same and properly timber working place.

Rents.

3 room house	$ 6.50
4 room house	7.50
5 room house	9.00
6 room house	10.00

Coal.

Lump delivered	$ 2.00
Egg	2.75
Nut	2.50

Mining Rates.

Room and Skip Coal	62c per ton 2240 lbs.
Pillar Coal	55c per ton 2240 lbs.

Entry. When 11 feet wide, with framed timber sets with 9 foot spread, collars 6 feet in clear and 6½ foot above track and 5 feet center to center $3.00 per yard.

Entry. When same as above in width, but posts and caps instead of sets, $2.25 per yard.

Back Entry Or Air Course.

When 7 to 9 feet wide and with posts and cap for timbers, $2.50 per yard.

When over 9 feet and to 11 feet with posts and cap for timbers, $2.00 per yard.

4527

Cross Cuts.

Whether on entry or between rooms, but where between rooms to be on top or bottom bench as directed, but to divide on the bench, $1.75 per yard.

Room Turning.

To be 9 feet at mouth and 12 feet wide when 15 feet in, then gradually widen to 20 feet the room width, $7.50.

Slope Sinking.

With framed timbers sets 5 feet center to center, 9 feet spread, collar 6 feet in clear and 6½ feet above rail. Water to be kept out by the Company, $3.50 per yard.

Timbers.

Timbers to be delivered by the Company to the mouth of rooms, and in entries near the working face.

Track Laying.

Miners to lay all track in rooms, Company to lay the xwitches and the turn tails leading into room.

In the entries, air courses or break-throughs, miners to lay all temporary track, and in the entries the Company to follow with permanent track.

Conditions.

The scale of prides herein provided shall include the work required to mine, shoot and deliver coal to the entry switch, where the miner will receive his empty.

In entries the miner will when required deliver his loaded car at the first frog from his working place, provided
4528 such frog is not over 90 feet from working face, and there will receive his empty.

In the slope and back entry of slope Company will take loaded car from the face, and the miner will receive his empty car from first break through from face.

Proper care shall be taken to prop all places in a workmanlike manner and as directed by the mine foreman.

Tool Sharpening, Except saws and Axes, Free.

Repairing of tools when desired by employes at cost to Company plus 10 per cent.

Company to place gridstones for miners' use at or near the entrance to mine.

L. W. DAVIES,
President Washington Coal Operators' Association.

JAS. ANDERSON,
Secretary of Washington Coal Operators' Association.

THOS. W. RUSSELL,
President, District No. 10,
U. M. W. of A.

D. C. JONES,
Secretary District No.10,
U. M. W. of A.

F. FARRINGTON,
International Representative.

THOMAS BURKE,
Commissioner Washington Coal Operators' Association.

ROBT. H. HARLIN,
International Board Member
U. M. W. of A. and District No. 10.

J. R. MONTGOMERY,
Vice-President District No. 10.

4529 Exhibit "D".

Agreement. United Mine Workers of America with Washington Coal Operator's Association.

Two years commencing September 1st, 1914.

Seattle, Wash., September 1st, 1914.

It Is Hereby Agreed between the Washington Coal Operators' Association, on the one hand, and the representatives of the United Mine Workers Of America and their District No. 10, on behalf of their organization, on the other hand, thet the following scale of prices and the following rules and conditions shall be in effect for two years, commencing September 1, 1914, and terminating August 31, 1916.

And It Is Farther Agreed that the parties to this contract shall meet in Seattle, Washington, on the fourth Monday in July, 1916, for the purpose of formulating another agreement. This agreement applies only to the mines being operated by them in the State of Washington.

General Provisions.

Management of the Mine.

Section 1. The right to hire and discharge the management of the mine and the direction of the working force are vested exclusively in the company and the United Mine Workers of America shall not abridge this right; however, the company agrees not to discharge employees or refuse work to applicants on account of personal prejudice or because of their affiliation with the U. M. W. of A.

Hours Of Labor.

Section 2. (a) It is definitely understood that this agreement be based on an eight-hour day; eight-hour day means eight hours' work at the usual working place, exclusive of one-half hour for mid-shift lunch, six days a week when
4530 required by the operators, Sundays and specified holidays excepted. (This rule does not apply to those men whose employment requires them to work seven day per week, or for the making of necessary repairs on machinery, shafts and slopes, and other work which cannot be done when the mine is running coal. All other Sunday work to be paid for on a six-hour basis.) However, this does not prohibit engineers, rope riders, motormen and cagers working the time necessary to hoist and lower the men, and in no case shall they work more than ten hours, but all such hours worked over eight shall be paid for at the scale rate on an eight-hour basis.

(b). Drivers shall work full eight hours in their respective places, and take their mules to and from the stalls, and the time for so doing shall not be included as part of the day's labor; provided that not more than ten minutes' time is required in going to or returning from his working place and stable.

(c) In case of emergency, which means any unlooked-for event that would tend to impede the operation of the mine the following shift, the operator shall have the right to work the men necessary to put the mine in proper condition.

Price Of Powder.

Section 3. (a) The price of black powder to be $2.25 per 25-pound keg: Giant powder, 30 and 40 per cent, to be $3.85 per 25-pound box: Giant powder, 20 per cent, to be $3.00 per 25-pound box; fuse, per 100 feet, 60 cents; 3X caps, per 100, 75 cents; 4X caps, per 100, 80 cents; 5X caps, per 100, $1.00; 5X caps, per 25, 30 cents. Local conditions to govern the grade and make of powder to be used at each mine. When two makes of powder of the same grade are on hand the miners to have their choice.

(b) It is agreed that when by order of the mining inspector or by the passing of laws or through the unsafe
4531 condition of any mine or part of any mine it is necessary to use a permissible explosive that a three months' test be made in that mine or part of the mine, during which test of the proposed permissable explosive, a comparison be made of the net earnings during the three months' test with the net earnings during the previous three months, and from the comparison a sarisfactory adjustment be made, and if upon comparison it is found that the net earnings of the miners has been reduced, such loss shall be made up by the company either in price of coal or price of powder.

However, it is agreed that during the three months' test the company shall have the privilege to employ an educational board of as many men as necessary to go around the mine and [dur] direct the proper use of the permissable explosive and that the miners shall be directed by the board in all questions in connection with the proper use of safety explosive.

Pay Day.

Section 4. (a) Pay day to be semi-monthly, payment, to be made on or before the first Saturday after the 15th of each month for the last half of the preceding month and on or before the first Saturday after the first of each month for the first half of the preceeding month.

(b) The operator shall furnish two days before pay day a uniform detachable statement showing in detail the earnings and deductions of each employe.

(c) All monthly deductions to be made on pay roll for the first half of the month.

(d) All errors to be corrected and paid within four days after pay day if demanded.

(e) The operators agree to pay in cash at camps where checks can not be cashed locally at face value.

4532 Doctor and Hospital.

Section 5. Present doctor and hospital arrangements to remain as at present until the first aid law is enacted, when the representatives of the miners and operators agree to meet and readjust Section No. 5 in accordance with the law.

Adjustment of Disputes and Grievances.

Section 6. Whereas, the benefits to be derived from an industrial contract depend altogether upon the fidelity with which it is carried into effect; and

Whereas, it is our earnest and sincere desire that any agreement made and executed by and between the representatives of the miners of District No. 10, and the representatives of the different coal companies signing this agreement be observed and carried out in its entirely, and that all controversies arising under this contract shall be definitely settled.

It is therefore mutually agreed that in case of any local trouble arising at any time through a failure to agree between the foreman and any employe, the pit committee and the foreman are empowered to adjust it, and in case of their disagreement, it shall be immediately referred, in writing, to the Superintendent of the operator and the Local President of the U. M. W. of A. or such persons as either may designate to represent him; and should they fail to agree, it shall then be referred, in writing, by either party, to the Commissioner of the respective operator and the District President of the U. M. W. of A., of District No. 10, or such persons as they may designate for its adjustment. (Explanatory note): It is agreed that the written statement of the case referred to in the third paragraph of Section 6 means a duplicate statement, the original of which is to be filed with the Local President, and the duplicate
4533 with the Superintendent of the Company, and that a duplicate of the Foreman's position on the case is to be filed with the Local President and the original with the Superintendent.

In case there should be a disagreement between the District President and the said Commissioner, the case shall be referred to a conciliation board composed of three representatives of the Washington Coal Operators' Association and the three resident officers of District No. 10, U. M. W. of A. said board to meet weekly, if necessary.

In case they fail to agree they shall prepare a joint statement in duplicate of the evidence submitted and send one to the General Manager of the respective operators and the other to the International President of the United Mine Workers of America who shall take up the case for a final settlement as speedily as possible.

In the event that the General Manager and the International President of the U. M. W. of A. fail to agree they shall have authority to select a person to decide the question in dispute; the mines to continue in operation.

Provided, however, that discharge or suspension cases shall not go beyond the conciliation board herein provided for unless mutually agreed to by the joint board.

(b) If any employe shall be discharged or suspended by the operator, and it is claimed that an injustice has been done him, the pit committee with the employe in question shall take up the case with the mine foreman within three days and in the event that they shall fail to reach a satisfactory settlement the case mine and the Local President or their representatives within three days.

Should they fail to reach a settlement the Superintend-
4534 ent and the Local President shall respectively submit the case in writing to the Commissioner of the operators and the President of District No. 10 within five days after disagreement.

In the event the Commissioner and the District President fail to agree, the case shall be referred to the conciliation board for final disposition.

Should it be proven an employe has been unjustly discharged or suspended, he shall be reinstated with compensation at the scale rate for the time suspended or discharged, such compensation shall not exceed ten days.

In the event that either party fail to take up grievance in the time above specified, settlement shall be made against the party in default.

All settlements and decisions rendered hereunder shall be final and binding on all parties concerned.

Duties and Limitations of the Pit Committee.

Section 7. (a) The operators shall recognize the pit committee in the discharge of their duties as provided in this agreement.

(b) The members of the pit committee shall be employes of the mine of which they act as pit committeemen.

(c) Not more than three comitteemen to serve for each mine.

(d) The pit committee in the discharge of their duties shall under no circumstances go around the mine for any cause whatever without permission from the pit boss, unless called upon by a miner or company man who may have a grievance that he has first tried to and cannot settle with the pit boss. In which event they shall notify the Mine Foreman or the Fire Boss in charge of the section of the mine to be visited.

(e) Members of the pit committee employed as day
4535 men shall not leave their places of duty during working hours, except by permission of the operators or in cases involving the stoppage of the mine.

(f) Any pit committeeman who shall attempt to force any rule or proceeding in conflict with any provision of this contract or any other agreement made in conformity herewith may be forthwith deposed as a committeeman.

When Men Shall Be Furnished by the Pit Committee.

Section 8. If any day man refuses to continue at work because of a grievance which has or has not been taken up for adjustment in the manner provided herein, and such action seems likely to impede the operation of the mine, the pit committee shall, upon request of the operator, immediately furnish a man or men to take such vacant place or places at the scale rate in order that the mine may continue at work, and it shall be the duty of any member of the United Mine Workers of America who may be called upon by the pit committee to immediately take the place assigned to him or them in pursuance hereof.

Collection of Union Dues and Assessments.

Section 9. (a) The operators will check off all union dues assessments and such fines as do not interfere with the authority vested in the mine management or seeks to reduce the output or impede the operation of the mine, and for the violation of any rule or decision under this joint agreement, from all members of the United Mine Workers of America when desired on proper individual order, which shall continue during the life of this agreement. It is understood that after the pit expenses for powder, caps and fuse, rent and doctor,
4536 the operator will give preference to the ordinary dues and assessments, and also not to exceed $5.00 in any one

pay for fines and initiation fees unless by special agreement with the operator concerned.

(b) The operator will furnish to the miners' local representative an itemized statement showing separately the total amount of dues, assessments and fines collected.

(c) In case any fine is imposed the propriety of which is questioned, the amount of such fine shall be withheld by the operator until the question has been taken up for adjustment and a decision reached.

(d) The operators agree that the members of the U. M. W. of A. may solicit membership in any peaceful manner, but in no way shall such solicitation impede the operation of the mines, and if any member or members of the U. M. W. of A. is found guilty of so doing he or they shall be suspended for one week.

(e) In no case shall any one be allowed to go from one place to another in or around the mines soliciting membership during working hours; however, the above does not prohibit the pit committee from going around the mines once each quarter for the purpose of checking up their membership.

Employees not under the Jurisdiction.
of U. M. W. of A.

Section 10 (a). The erection of head frames, buildings, scales, machinery, railroad switches, etc., necessary for the completion of a plant for loading, all being in the nature of construction work, is to be excluded from the jurisdiction of the U. M. W. of A. Extensive repairs to or rebuilding of same class of work shall also be included in the same exception, the employes thereon to be excluded as above, when employed on such work only.

4537 (b) No scale of wages shall be made by the United Mine Workers for Mine Foreman, Mine Foreman's Assistant, Tpp Foreman, Company Weighman, Boss Driver, Night Boss, Fire Boss, Head Machinist, Head Boilermaker, Head Carpenter, Head Electrician and Night Watchman. The authority of the operator to hire and discharge may be delegated to the Mine Foreman,Top Foreman, Boss Driver, Night Boss and Head Machinist. (The term "Assistant Mine Foreman" shall apply only to such as are authorized to act in that capacity.) The Night Watchman shall be exempt when employed in that capacity only. The term "Head Carpenter" and "Head Machinist" shall apply only to such as have charge

of carpentry or machine work at one or more mines, or at one or more washing plants.

(c) When Mine Timber Choppers are employed by the company direct, they shall be subject to the jurisdiction of the U. M. W. of A. and shall receive the scale of wages as herein provided for that class of labor, or such scale of wages as have been locally agreed to, but, this clause shall not prevent the mine owner from contracting for his mine timber supplies.

Penalties for Impurities.

Section 11 (a). In case rock, slate, bone, clay, sulphur or other impurities are sent up with the coal by the miners, it shall be the duty of whosoever the operators shall designate as inspector to report the same, with the estimated weight thereof, and the miner so offending shall have such weight deducted from established weight of car. For the third offense occurring within thirty days or any malicious or aggravtated case of the first, the miner may be indefinitely suspended or discharged, said weight to be determined by the inspector designated by the operator. Any malicious or aggravated case of the first to be determined by the inspector and check-
4538 weighman, and if they agree the case shall be considered closed. Should they fail to agree, the impurities shall be kept as evidence, and the case taken up as provided for in Section 6.

(b) In Roslyn field, where boiler house coal is docked for impurities, the check-weighman or his representative shall be present when coal is unloaded.

(c) This section does not apply to pitching seams, except in the Roslyn Cle Elum field.

Penalty for Stoppage of Work.

Section 12. (a). If an employe or employes shall cause the stoppage of work in violation of this agreement, he or they may be discharged.

(b) It is distinctly agreed that a local union or its officers have no right to shut down a mine, impede its operation nor prevent an employee from discharging his duties in accordance with the provisions of this agreement. Any one violating this section shall be discharged.

(c) It shall be the duty of the operators to immediately notify the men in any entry or mine when for any reason the mine or entry is shut down for the day

Preference of Employment.

Section 13. In case an employe or employes are thrown out of employment the idle employe or employes shall have the option of waiting for a place in the mine where he or they were employed, which shall be given him or them in their regular turn of accepting employment in other mines at the same camp operated by the same company. Employees who accept or secure permanent employment in other places shall forfeit their right for re-employment.

(b) When the working force is to be reduced, the man
4539 whose place or shift stops shall be laid off, excepting company hands to whom the seniority rule shall apply to the respective classes of labor consistent with their ability to do the work.

(Explanatory Note.) Where places have been double or triple shifted, and necessity occasions the operator to lay off one or more shifts, the right of preference to the place shall be given to the men who have been longest employed in such working place.

Holidays to be Observed.

Section 14. New Year's Day, First of April, National Flag Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas are to be observed as holidays, also half day on all regular and special District and International elections.

Remuneration for Water.

Section 15. In all places where water accumulates, the same shall be bailed out or pumped out by the company, but if done by the miner he shall be paid at the scale rate.

Pushing Empty Cars.

Section 16. (a) The miners shall not be required to push empty cars into their places while turning rooms, but empty cars shall be delivered to the end of the track by the company until the rope is in. This applies to rooms where the pitch is too steep for the men to push the cars.

(b) When turning a room the track shall be put in as soon as practicable and shall not be more than twenty feet from the face. In double rooms the rope shall be put in as soon as holed.

(c) In rooms in Roslyn, where the coal is run by chutes, the company is required to put in a platform as soon as there is room for it.

4540 Where Miners Haul Their Own Coal.

Section 17 (a). Miners will not haul their own coal except as herein specified. Entrymen to haul their own coal on days the mine is not hoisting coal and in entries where no coal is produced from rooms. Compensation to be five cents per car for a distance to exceed 1,200 feet.

Men in old entry stumps to haul their own coal where six or less men are employed. Compensation to be five cents per car for a distance of 1,200 feet or less, and ten cents per car for a distance greater than 1,200 feet, and not to exceed 2,400 feet.

The conditions in the dip mine at Roslyn to remain as at present.

(b) In pitching seams where any miner pushes his car more than 300 feet in gangway he shall be compensated at the rate of five cents per car, but in no case shall the miner be required to push his car more than 600 feet.

Change of Work.

Section 18. A miner taken from the face to drive or perform other day work shall receive the miners' scale of pay. Any other employe taken to do other work than his regular employment shall be paid at the scale of wages that his regular employment calls for providing it is not less than the scale for the new work, at which he is temporarily employed.

Fatal Accidents and Funerals.

Section 19 (a). In case of any employe meeting instantaneous death by accident in or around the mine, the management shall immediately notify the men to suspend work for the remainder of the shift (this does not apply to such men as are required to keep the mines in proper con-
4541 dition), but work at the option of the operator shall be resumed the following shift and continue thereafter. In case the operator elects to operate the mine on the day of the funeral of the deceased, as above, or where death has resulted from an accident in or around the mine, then the individual miners or employes may at their option absent themselves from work for the purpose of attending such funeral, but not otherwise.

(b) The operator shall keep sufficient first aid appliances at each mine according to the instruction of the state mining inspector.

Mine Safety Committees.

Section 20. A committee composed of the President of the Local Union, the mine Superintendent or Manager of the mines, and a third member selected by these two shall constitute a committee whose duty it shall be to investigate all serious and fatal accidents; their findings and recommendations to be presented in writing to the General Manager or General Superintendent of the company, a duplicate copy of this report to be filed with the District Office, also to make a bi-monthly examination of the mine and make recommendations in writing as to dangerous conditions and safety measures.

Penalties for Absence from Work.

Section 21 (a). Any employe absent from work for a period of two consecutive days without first having notified the pit boss, may be suspended for a period of one week, when he shall be given his former working place. For the second or subsequent offense in any thirty consecutive calendar days he may be discharged.

(b) Engineers, motormen, drivers, drum men and employes whose absence would cause stoppage of work, 4542 must before absenting themselves from work properly arrange with the superintendent or pit boss for their absence, otherwise they may be discharged unless they can furnish a proper excuse.

(c) Any employe absent from work for five days without permission unless through sickness in any thirty consecutive calendar days may be discharged. Employes absent through sickness or permission shall be given their regular working places.

(d) Employees receiving minor injuries must notify the management before leaving the mine, and employees absent on account of sickness shall notify the management if possible for them to do so.

The management shall notify miners at the mouth of the mine of any missed shots or other conditions the Fire Boss may have found in his examination of the mine, that would prevent men from working the following shift.

Deficient Places.

Section 22. (A) All deficient places may be driven at a price to be decided upon between the pit boss and the miners working in such place or places, provided an agreement can be reached that is satisfactory to both parties.

(b) In the event that the miner and the pit boss fail to agree on a price, the pit committee (who shall in this case be three miners) can be called in by either party, and if it is agreed that the place is deficient, or should they fail to agree with the pit boss, the miner or miners shall be provided with another normal working place, or continue to work at the miners' scale rate.

(c) Where it is claimed that a place is, or is going to be deficient, the mine foreman shall be called into the place, and if he cannot agree with the miners that the place is, or
4543 is going to be deficient, the men working in the place or other men whom the mine foreman may choose, shall work the place at the regular mining rate from pay day to pay day, or not less than eight days actually worked in the place, and that if during this period these men have earned an average daily wage of $3.80, the place shall be declared not deficient, but if these men have not earned an average daily wage of $3.80, they shall be made up to an average wage of $3.80, by the company and the place shall be declared deficient.

(d) It is agreed that no miner or miners shall be discharged because of their failure to agree on a price for deficient work.

Responsibility for Timbering and Duties of Employes.

Section 23 (a) It shall be the duty of all miners to care for their working places in a proper manner. If any miner shall fail to properly timber, shoot or care for his working place, and such failure has entailed falls of slate, rock and the like, the miner whose fault has occasioned such damage shall repair the same without compensation, and if such miner fails to repair such damage he may be discharged. All other employes to give proper care to the duties to which they are assigned.

(b) Contract miners shall use due care in lowering cars in their rooms, and when found guilty of carelessness in lowering their cars, which results in damage to track or timber, the miners shall repair the same without compensation.

(c) All unavoidable rock falls shall be removed by the company. When such fall is being cleaned, the men who were employed in such places shall be given another working place, if there is one vacant, or shall be given other employment at the scale rate, if possible to do so.

4544 Definition of the Working Place.

Section 24. (a) The definition of the working place in flat seams shall mean the space between the furthest driven point in the face and 55 feet back from that point.

(b) In pitching seams where wings are used the workings place designated in Section 23 is the wing and space inside the wings.

Where breast cars are used the space inside the McGinty posts.

Miners shall have the privilege of moving the wings and McGinty posts to suit their own convenience.

Where wings or breast cars are not used in pitching seams the definition of the working place shall mean the space between the furthest driven point in the face and 55 feet back from that point.

Definition of Seams.

Section 25. It is agreed that in all places in this contract where the term flat seam is used, that in such place the regular mine cars are taken to the face of the rooms or breasts, and all other mines shall be classified as pitching seams.

Man Cars or Man Trips.

Section 26 (a). All miners or inside laborers shall be allowed to ride in suitable cars provided by the company from the mouth of the mine or shaft to the landing on the level on which they work, and return.

(b). Where there are inclines to or from the mines present practice shall prevail, excepting at Franklin, where local conditions shall govern. New mines opened during the life of this agreement shall be subject to agreement between Miners' District Officials and the Mine Management.

4545 (c) In any case where men refuse to stay off the slope until the man trip has been stopped at their landing, or in case where employes jump off or leave man trip before it has been stopped at the landing, the company shall have the privilege of discharging the offending employes.

(d) Starting of the shifts shall be arranged between the local union and the company.

Scales and Checkweighmen.

Section 27. (a) At mines where scales are used to weigh miners' coal, arrangements shall be made by the company for keeping the same in perfect working order. At such mines each local union shall elect its own checkweighman from the employes in the same mine operated by the same company.

(b) Checkweighmen shall be given work in the same mine where employed at the time of election when their services as checkweighmen are discontinued.

(c) The company shall make deductions for the checkweighmen fund and turn the same over to the proper representative of the checkweighman fund.

(d) Where it is agreed that a checkweighman has in violation of this agreement or the state mining laws, impeded the operation of the mine he shall be deposed as checkweighman.

Night Shift Men.

Section 28. Five per cent increase over specified rates shall be allowed for men working on night shift only. This five per cent does not apply to those who change shifts week about.

Rooms or Breasts over 400 feet.

Section 29. When a room or breast is driven up more than 400 feet, 50 cents per yard shall be paid for all yardage in excess of 400 feet.

4546 Room and Chute Cross-cuts.

Section 30. When room or chute cross-cuts above the first cross-cut or counter are driven a distance of more than 30 feet from one side an additional 50 cents per yard shall be paid up to 50 feet, after which it shall be driven at the miners' scale rate.

Employees to Care for Mine in Case of Disagreement.

Section 31. In case of either local or general suspension of mining, either at the expiration of this contract or otherwise, the engineers, firemen and pumpmen shall not suspend work., but shall, when mining is suspended, fully protect all of the company's property under their care, and operate fans and pumps and lower and hoist such men or supplies as may be required to protect the company's property, and any and all coal required to keep up steam at the company's coal

plants, but it is understood and agreed that the operators will not ask them to hoist any coal produced by non-union labor for shipment.

Development Work.

Section 32. (a) No coal shall be loaded on idle days except from development work, and for the safekeeping of the mines. No coal shall be dumped on idle days except for these purposes.

(b) Before entries and gangways, slopes and aircourses are worked on idle days they must be double shifted. Where mines are working slack time and gangways and entries, slopes and air-courses are worked on idle days, the work shall be equally divided among men competent to do the work. Slack time shall mean when mines work less than 18 days per month. "The division of work as above specified does not apply to entries or gangways, slopes or air-
4547 courses, when the same are triple shifted."

(c) The operators shall see that an equal turn of cars is offered contract miners and that they be given a fair chance to obtain the same.

Engineers.

Section 33. No engineer shall be subject to the authority or supervision of the pit committee, but in case of any disagreement which he cannot settle with the foreman and local president the subject shall be taken up by the District President or his representatives and the Superintendent for adjustment. In case of their disagreement, to be taken up as provided in Section 6. All engineers shall do their own firing or any other work connected with machinery assigned them by the operator, in places where it is practicable and their duties as engineers do not prohibit their so doing.

Lifting of Iron Rails in Room Pillars and Entry Stumps.

Section 34. Where iron track and switches are moved or replaced by order of the mine foreman in room pillars or entry stumps, it shall be paid for at the scale rate by the company, but it is understood that miners working in room pillers and entry stumps will continue as heretofore to lift the last pair of rails and move them back even with or below the car, after which their responsibility ceases.

When Tools are Furnished.

Section 35. Trackmen and Timbermen and Miners when permanently employed at the day wage scale shall be fur-

nished tools by the Company. The employee to be responsible for and return tools to the company when leaving the service or finishing the work, or pay for the same.

4548 Rules in Violation of Contract.

Section 36 (a). This contract shall in no case be set aside because of any rules of any local union of the U. M. W. of A., nor shall there be any rules made controlling or affecting the operation of the mines, nor shall any change be made in the accepted rules without the operators and miners first consulting and agreeing thereto. All local rules in violation of this contract shall be null and void and no local union or group of local unions shall pass any rules in violation of this contract; neither shall any company enforce any rules in violation of this contract.

(b) All employees must obey the existing printed rules and regulations now posted at the mines. New rules and regulations affecting the terms of this contract must be mutually agreed to.

(c) No individual employe, local union, district officials, operator or manager shall be allowed to make new conditions until after the expiration of the specified life of this agreement, unless ratified by the district president and the operators' commissioner.

Day's Wage Scale.

Inside Mine.

Miners,		$3.80
Timbermen,		3.80
Timbermen's Helpers,		3.15
Tracklayers,		3.80
Tracklayers' Helpers,		3.15
Motormen,		3.35
Drivers,		3.35
Parting Boys,	$1.90 to	2.40
4549 Greasers,		1.85
Trappers,		1.60
Rope Riders,		3.35
Hoist Men on Development Work,		3.15
Engineers,		3.40

Cagers,	3.40
Cagers' Helpers,	3.15
Inside Labor, not specified,	3.15
Shot Lighter,	3.95
Pumpman,	3.15

Boys working on hoists, except on main slopes and auxiliary slopes, at $2.50 per day.

Outside Mine.

Engineers,	3.40
Firemen,	3.00
Cagers,	3.15
Cagers' Helpers,	2.75
Stablemen, per month,	85.00
Teamsters,	2.90
Greasers,	1.45
Couplers,	1.60
Dumper,	2.75
Blacksmiths, 1st,	3.70
Blacksmiths, 2nd,	3.40
Blacksmiths' Helpers,	2.90
Carpenters, 1st,	3.70
Carpenters, 2nd,	3.15
Car Repairers,	2.90
Choppers,	2.90
Screeners (men)	2.10
4550 Screeners (boys)	1.60
Moving Picking Table (men)	2.20
Moving Picking Table (boys)	1.70
Outside Labor,	2.60
Development Engineers,	3.15
Machinists,	3.40

Northwestern Improvement Co.

Roslyn-Cle Elum Field.

All local conditions to remain as at present unless changes are mutually agreed to.

The scale of prices herein provided shall include the work required to mine, shoot and load coal, and, where possible, to deliver the same to the entry; to lay track in the working place, set wheel posts, move same and properly timber the working place.

Where chutes are used the Company to build the platform and blast the rock necessary for laying switches and track, the platform to be built above the car. Miners to build chutes after the first two lengths of sheet iron have been laid by the Company.

The operator shall be required to furnish the necessary props and timber at the working place, except in chute rooms, where all timber and chute material shall be delivered at the bottom of the chute.

In entry and air-courses the brushing shall be covered by the yardage price, and the entry coal shall be paid the same as tonnage price as when the cap rock is 12 inches thick or less and is taken down.

Cross-cuts to be full height of the seam and six feet wide.

Starting Time.

4551 The man trip and the last man cage will leave the outside in time for miners and Company men to be at their working places at 7 o'clock a. m., from April 1st to September 30th, and 8 o'clock a. m., October 1st to March 31st. Drivers will have mules harnessed and hitched to trip at same hours. Quitting time for miners, Company men and drivers to be 3:30 p. m. from April 1st to September 30th, and 4:30 P. M. October 1st to March 31st. First cage will leave the shaft bottom at 3:35 p. m., from April 1st to September 30th, and 4:35 p. m., from October 1st to March 31st. Outside starting time to be at 7 a. m. April 1st to September 30th, and 8 a. m. October 1st to March 31st. Tipple time to be arranged to the best advantage to handle the coal. Last cage to leave the top of the shaft and starting time for man trips to be decided by trial.

Shooting Time.

Miners will not shoot at noon hour, or at any other time before 3:25 p. m., from April 1st to September 30th, and 4:25 p.

m., from October 1st to March 31st. Any miner shooting before these hours shall, when reported by the Superintendent, be fined $2.50 for each offense, or discharged, at the option of the Company. Special permission may be given by the Mine Foreman to shoot at noon hour.

Rents.

Five-room houses, per month,	7.50
Four-room houses, per month,	6.50
Other houses, per room, per month,	1.50

All employes shall have house coal for their own consumption delivered at $2.25 per ton.

Mining Rates.

4552	At Roslyn, No. 5 and other openings on the Roslyn-Cle Elum vein, where 12 inches or less of cap rock is taken down, according to present Roslyn practice, per ton of 2,240 pounds,	1.02
	Where more than 12 inches of cap rock is taken down,	1.05
	At Cle Elum, No. 5 and other openings on the Roslyn-Cle Elum vein, where cap rock is left up, according to present Cle Elum practice, per ton of 2,240 pounds,	.95
	Chute work on Roslyn-Clue Elum vein, per ton of 2,240 pounds,	.92
	Cross-cuts in rooms, per yard	1.15
	Entry price, 14 ft. wide, per yard,	2.90
	Entry price 14 ft. wide, cap rock up, at Cle Elum,	1.85
	Entry price, 8 ft. wide, per yard,	3.40
	Down-hill cross-cuts, under 40 ft. per yard	1.60
	Down-hill cross cuts, over 40 ft. per yard,	2.50
	Up-hill cross-cuts, under 50 ft. per yard,	1.60
	Up-hill cross-cuts, over 50 ft. per yard,	2.50
	Room turning, 20 ft.	8.50

Room turning, 40 ft	10.50
Slope sinking, per yard,	3.70

Ravensdale.

All conditions to remain as at present unless changes are mutually agreed to.

The scale of prices herein provided shall include the work required to mine, shoot and deliver coal into the top end of the chute (or into the cars on gangway in temporary chute work), to properly timber the working place, build
4553 chutes, ladders, set center posts and build brattice in the chute.

The operators will furnish all timber at the nearest cross-cut, except chute material, which will be furnished at the first cross-cut.

In the McKay all material will be delivered at the nearest cross-cut to the face.

In pillar work the miner will build all brattices.

First cross-cuts must be six feet wide, other cross-cuts four feet wide and height of chute work.

Last man car for morning shift leaves the top at 6:55 a. m., and the first man car at end shift leaves the bottom at 3:35 p. m.

Afternoon shift last car leaves top at 3:50 p. m., and first car end of shift leaves bottom at 12:30 a. m. First level will shoot at 9:15 a. m., 12:00 and 3:15 p. m., 6:15 p. m., 9:30 p. m., and 12:15 a. m. Second level will shoot at 10:30 a. m. 3:15 p. m., 8:15 p. m. and 12:15 a. m. Winter schedule 30 minutes later.

Rents.

Five-room houses, per month,	$7.50
Four-room houses, per month,	6.50
Other houses, per room, per month,	1.50

All employes shall have house coal for their own consumption at the following rates:

Coal, per ton, delivered,	2.00

Nut coal to be provided when it is available.

No. 3 Seam.

	Gangway, 6 ft. wide, collar 6-½ ft. high, per yard,	8.30
4554	Chute, 5 ft. wide, height of seam, brattice and manway,	2.50
	Cross-cuts 5 ft. wide, height of seam, no timber,	2.60
	Cross-cuts 4 ft. wide, 4 ft. high, no timber,	2.00
	Cross-cuts between breasts,	1.70
	Coal from breast, including building of brattice, chute and manway, per car	.58
	Timbering in first cross-cut, timber 6 in. diameter, per set	.80
	Temporary chute,	1.60
	Laying sheet iron, per lineal yard,	.30

Miners on pitch to deliver coal in chutes. Company shall buck coal in main chute where pitch is too light for coal to run free.

No. 4 Seam.

	Gangway, 6 ft. collar, 6-½ ft. in the clear, per yard,	9.90
	Chutes, 6 ft. wide, height of seam, center post, brattice sheet iron laid and manway,	3.45
	First cross-cut, 6 ft. wide, height of seam, no timber,	3.70
	Cross-cuts, between chute, 4 ft. wide, and 4 ft. high, no timbering,	2.90
	Cross-cuts between breasts, 4 ft. wide and 4 ft. high,	1.90
	Breasts, including brattice, sheet iron and manway, per car,	.70
	Pillars per car,	.58

Breast, 10 ft. wide, brattice, sheet iron and manway, 80 cents per yard, and car pay 70 cents per car.

4555	Timbering-in cross-cuts, timber 6 in. diameter, per set,	.80
	Temporary chute,	1.60

Miners on pitch to deliver coal in chutes. Company shall buck coal in main chute where pitch is too light for coal to run free.

No. 5 Seam.

Gangway, 6 ft. collar 6-½ ft. in clear, per yard,	8.70
Gangway, 6 ft. collar, 6 ft. in clear, lifting 4 ft. rock, measured from top of rail,	10.45
Chutes, 6 ft. wide, not less than 5 ft. high, center post, brattice, sheet iron and manway,	2.90
First cross-cut, 6 ft. wide, not less than 5 ft. high, no timber,	3.40
Other cross-cuts between chute, 4 ft. wide, 4 ft. high, no timber,	2.90
Other cross-cuts between breasts, 4 ft. wide, 4 ft. high, no timber,	1.90
Breast, miner to build brattice, sheet iron and manway, per car,	.58
Miner when working pillars by day work, per day,	4.00
Timbering in first cross-cut, timber 6 in. diameter, per set,	.80
Temporary chute,	1.60

Miners on pitch to deliver coal in chutes. Company shall buck coal in main chute where pitch is too light for coal to run free.

No. 9 Seam.

4556	Gangway, 5-½ ft. collar in clear, 6 ft. high, par yard,	12.00
	First cross-cuts, 6 ft. wide, by height of seam, no timbering,	2.90
	Cross-cuts between chutes, 4 ft. wide, height of seam,	2.02
	Chute, 6 ft. wide by height of seam,	2.02
	Temporary chute, 6 ft. wide, height of seam,	2.90
	Chute building with brattice, per yard,	.75

Laying sheet iron, par yard,	.30
Brattice, per yard,	.30

Miners on pitch to deliver coal in chutes. Company shall buck coal in main chute where pitch is too light for coal to run free.

McKay Seam.

Gangway, 6 ft. collar, 6-½ ft. in clear, per yard,	9.30
Chutes, 10 ft. wide, timbered 4 pc. set, lagged, including brattice, sheet iron and manway, per yard,	4.05
Chutes, 8 ft. wide, timbered, 4 pc. set, lagged, including brattice, sheet iron and manway, per yard,	3.45
Chutes, 6 ft. wide, timbered 4 pc. set, lagged, including brattice, sheet iron and manway, per yard,	2.90
First cross-cut, 6 ft. wide, height of seam, timbered 3 pc. set, lagged,	3.15
Cross-cuts, 4 ft. wide, 4 ft. high, 3 pc. set, lagged,	2.65
Pillars, per yard, 3 ft. wide,	.70
Brattice building, per yard,	.20

Miners on pitch to deliver coal in chutes. Company
4557 shall buck coal in main chute where pitch is too light for coal to run free.

Meimont No. 3 Seam.

All local conditions to remain as at present unless changes are mutually agreed to.

Gangway, 6-½ ft. collar 6-½ ft. high, 9 ft. legs, per yard,	9.25
Counter, 5 ft. high, 6 ft. wide in the clear, timbered and lagged, per yard,	3.45
Cross-cuts, 4 ft. wide, 4 ft. high in the clear, timbered and lagged,	2.10
Chutes, temporaries, including building chute, timbering and bulkhead,	2.30

Breasts, 18 ft. wide, thickness of coal cog built each side of chute, 6 ft. apart up the pitch, lagged between cogs,	4.75
Pillars, 90 sq. ft. thickness of seam,	5.25

Timber delivered at working place or nearest cross-cut to the working place.

Starting time: Last man car for morning shift leaves the top at 7:55 a. m., and the first man car at the end of shift leaves the bottom at 4:35 p. m. Afternoon shift—Last car leaves top at 4:50 p. m., and first car at end of shift leaves bottom at 1:30 a. m.

The Roslyn Fuel Company.

All local conditions to remain as at present unless changes are mutually agreed to.

Regulations regarding shooting time to remain as at present.

All employes shall have house coal furnished for their own use, delivered in vicinity of Beekman or Ronald, at $2.25
4558 per ton.

Where cap rock can be held with safety to life and limb, the same shall be kept up, and the price per ton of 2,240 pounds shall be 95 cents.

Where cap rock of less than 12 inches in thickness is taken down, the price shall be $1.02.

Proper care shall be taken in propping and working places in a workmanlike manner.

Mining Rates, No. 1 Mine.

Mining coal, per ton of 2,240 pounds,	.95
Cross-cuts in rooms, per yard,	1.15
Entry price, 8 ft. wide, per yard,	3.40
Entry price 8 ft. wide, brushed for mules only, and not over 6 inches,	2.60
Entry price, 14 ft. wide, per yard, brushing gobbed,	2.90
Down-hill cross-cuts, under 40 ft. per yd.	1.60
Down-hill cross-cuts, over 40 ft. per yd.	2.50
Up-hill cross-cuts, under 50 ft. per yard,	1.60

Up-hill cross-cuts, over 50 ft. per yard,	2.50
Room turning, 20 ft. long,	8.50
Room turning, 40 ft. Long,	10.50
Room turning, 30 ft. long,	9.50
Slope sinking, per yard,	3.70

No. 2 Mine

The Roslyn Fuel Company agree to pay a mining rate of Ninety-five cents (95¢) per ton of twenty-two hundred and forty (2240) pounds of coal at their No. 2 mine at Beekman, Washington, with the understanding that all coal is to be mined in the clear on the bottom as is now practiced,
4559 and that the miners shall throw back all rock or binders occurring in the coal and shall take care of any bone which may fall from the roof and gob the same and keep his room or working place in a safe and good condition. All general provisions and yardage rates shall be the same as now governing mine No. 1, with the exception that for air-courses the rate shall be Two Dollars and Sixty Cents ($2.60) per yard brushed high enough for mule, instead of being brushed six inches, as is called for in No. 1 yardage rates. The Company reserves the right to employ and shoot all coal within shot lighter at any time they deem advisable.

Pacific Coast Coal Company:

All local conditions to remain as at present unless changes are mutually agreed to.

House rent to remain as at present.

Electric light charges, 50 cents per month per 16 c. p. lamp.

Coal delivered $3.00 per ton of 2,000 pounds.

When employes own their houses, $1.00 ground rent per month for lot (5,000 square feet) for residental purposes.

When employes own their houses and water is furnished by the Company, water rent is 50 cents per tap per month.

Tool sharpening, except saws and axes, free.

Repairing of tools when desired by employes, at cost, which is wages of mechanics plus 10 per cent added for use of coal and tools.

Company to place grindstones for miners' use at each mine.

Miners on pitch to deliver coal in chutes. The Company shall buck coal in main chutes where pitchers are too light for coal to run free. The angular chutes in pillar work are termed main chutes.

Gem Mine.

4560 Gangway, 6 ft. collar in clear, including timbering laying track and rock to be lifted 4 ft. above upper rail per lineal yard, 10.00

Chutes, 6 ft. wide and 5 ft. high, per lineal yard, 3.15

Chutes, 6 ft. wide, and height of seam, per lineal yard, 2.10

Cross-cuts, 5 ft. wide in clear, per lineal yard, 2.10

Breasts, 24 ft. wide, timber to be delivered on gangway, per lineal yard, 5.70

Chute building with brattice, timber to be delivered on gangway, per lineal yard, .80

Pillars 1 ft. wide, timber to be delivered on gangway, per lineal yard, .16

Where pitch is less than 35 degrees, $2.00 extra per lineal yard on gangway.

Mine No. 14 Little Seam.

Gangway, 14 ft. wide in coal, 6 ft. collar in clear, including timbering, making ditch, laying track and rock to be lifted 4 ft. above rail, per lineal yard, 10.50

Breasts, 30 ft. wide, timber delivered at end of manway, per lineal yard, 5.25

Skips, 30 ft. wide, timber delivered at end of manway, per lineal yard, 4.20

Skips, 20 ft. wide, timber delivered at end of manway, per lineal yard, 2.75

Chutes and cross-cuts, 6 ft. wide, (1st cross-cuts) timber delivered at end of manway, per lineal yard, 3.15

Cross-cuts between breasts, 4 ft. wide in clear,
4561 timber delivered at end of manway, per lineal yard, 2.60

Relief sets in chutes and first cross-cut with lagging, timber delivered on gangway, per set, 1.05

Relief sets in crosscuts between breasts with lagging, timber delivered at end of manway, per set, .80

Company to load all coal from chutes and first cross-cuts.

Miners to deliver coal in chutes.

Mine No. 14 Big Seam.

Gangways, 21 ft. wide in coal including timbering, laying track and rock to be lifted 4 ft. above upper rail, per lineal yard, 12.65

Gangways, with 6 ft. wide collar in clear, including timbering, making ditch, laying track and rock to be lifted 4 ft. above upper rail, per lineal yard, 10.00

Breasts, 30 ft. wide, timber to be delivered at end of manway, per lineal yard, 7.90

Breasts, 20 ft. wide, timber to be delivered at end of manway, per lineal yard, 5.80

Pillats 1 ft. wide, timber delivered at end of manway, per lineal yard, .21

Chutes, 6 ft. wide in clear, timber delivered on gangway, per lineal yard, 3.15

Chutes 10 ft. wide, timber delivered at end of manway, per lineal yard, 3.70

Crosscut, 6 ft. (1st crosscut), timber delivered on gangway, per lineal yard, 3.15

Crosscut, 4 ft. wide in clear, timber delivered at end of manway, per lineal yard, 2.60

Relief sets of timber in breasts, timber delivered at end of manway, per set, 1.05

4562 When small seam is worked out first, 30 ft. breast, per lineal yard, 9.00

When small seam is worked out first, 20 ft. breast, per lineal yard, 6.30

When small seam is worked out first 10 ft. chute, per lineal yard, 4.20

Company to load all coal from chute and first crosscut.

Miners to deliver coal in chute.

Morgan Slope Little Seam.

Gangway, 6 ft, collar in clear, paid per car for coal, including timbering, making ditch, lay-track and rock to be lifted 4 ft. above rail, per lineal yard, 8.00

Chute, 6 ft. wide, paid per car for coal, timber delivered on gangway, per lineal yard, 1.60

Crosscut, 6 ft. wide, (1st crosscut) paid per car for coal, timber delivered on gangway, per lineal yard, 1.60

Crosscuts, between breasts, 4 ft. wide in clear, paid per car for coal, timber delivered at end of manway, per lineal yard, 1.60

Relief sets of timber in chutes and first crosscuts with lagging, timber delivered on gangway, per set, 1.05

Relief sets of timber in breasts with lagging, timber delivered at end of manway, per set, 1.05

Relief sets of timber in crosscuts between breasts, timber delivered at end of manway, per set, .80

Price for car of coal the same is in big seam, with the same conditions as to thickness of coal to govern.

Company to pay one shoverler for each two miners working in gangways; also in breasts and pillars, when coal is to be loaded in breast cars. If only one miner is in,
4563 miners to pay half of shoveler's wages; if shoveler is not in, miner to receive proportional part of shoveler's wages; one miner half, two miners all.

Company to load coal from chute and first crosscut.

Miners to deliver coal in chute.

Morgan Slope Big Seam.

Gangways, 21 ft. wide, 6 ft. collar in clear, including timbering, laying track, and rock to be lifted 4 ft. above upper rail, paid per car of coal, per lineal yard, 9.00

Gangway, 6t ft. collar in clear, including timbering, making ditch, lying track and rock to be lifted 4 ft. above upper rail, paid per car coal per lineal yard, 8.00

Breasts, 20 to 30 ft. wide, paid per car for coal, timber delivered at end of manway.

Pillars, paid per car for coal, timber delivered at end of manway.

Chutes, 6 ft. wide, paid per car for coal, timber delivered on gangway, per lineal yard, 1.60

Chutes, 10 ft. wide, paid per car for coal, timber delivered at end of manway, per lineal yard, 1.05

Crosscuts, 6 ft. wide (1st crosscuts), paid per car for coal, timber delivered on gangway, per lineal yard, 1.60

Crosscuts, between breasts, 4 ft. wide in clear, paid per car for coal, timber deliered at end of manway, per lineal yard, 1.60

Chute building, one width sheet iron, material delivered at end of manway, per lineal yard, .30

Chute building, two widths sheet iron, material delivered at end of manway, per lineal yard, .60

Relief sets in breasts and chutes, timber delivered at end of manway, per set, 1.05

4564

Coal from gangways and breasts when seam is 5 ft. and over, per car, .52

Coal from gangways and breasts when seam is under 5 ft. per car, .64

Coal from gangways and breasts when seam is under 4 ft. per car, .74

Coal from pillars when seam is 5 ft. and over, per car, .42

Coal from pillars when seam is under 5 ft. per car, .52

Coal from pillars when seam is under 4-½ ft. per car, .64

Company to pay one shoveler for each two miners working in gangsways; also in breasts and pillars, when coal is to be loaded in breast cars.

When only one miner is in, miners to pay half of shoveler's wages; when shoveler is not in, miners to receive proportional part of shoveler's wages; one miner half, two miners all.

Company to load coal from chutes and first crosscuts.

Miners to deliver coal in chute.

Lawson Mine.

All local conditions to remain as at present unless changes are mutually agreed to. Gangway, including timbering, making ditch, laying track and rock to be lifted 4 ft. above upper rail, paid per car for coal, per lineal yard, 6.30

Chutes, 6 ft. wide, timber delivered on gangway, per lineal yard, 3.70

Chutes 10 ft. wide, timber delivered on ganway, per lineal yard, 4.50

4565 Brattice, timber delivered on gangway, per lineal yard, .30

Chute building with sheet iron, material delivered on gangway, per lineal yard, .75

Crosscuts, 5 ft. wide, timber delivered on gangway, per lineal yard, 3.15

Widening and timbering in first crosscuts, timber delivered on gangway, per lineal yard, 1.85

Crosscuts, 4 ft. wide in clear, timber delivered on gangway, per lineal year, 2.60

Relief sets in chutes and crosscuts, timber delivered on gangway, per set, 1.05

Pillars 1 ft. wide, timber delivered at end of manway, per lineal yard, .28

Carrying props to pillars and breasts, timber delivered on gangway, per prop .11

Relief sets in breasts and chutes, timber delivered on gangway, per set, 1.05

Coal per car when seam is 4 ft. and over, in gangways and breasts, .68

Coal per car when seam is less than 4 ft. in gangways and breasts, .80

Boiler coal in gangways, per car, .30

Company to load coal from chutes and first crosscuts.

Miners to deliver coal in chutes.

Coal Creek Mine Muldoon Seam.

All local conditions to remain as at present unless changes are mutually agreed to.

Breasts, 30 ft. wide, including timbering, timber to be delivered on gangway, per lineal yard, 6.00

4566 Breasts, 50 ft. wide, including timbering, timber to be delivered on gangway, per lineal year, 10.10

Chute, 10 ft. wide, including timbering, timber delivered on gangway, per lineal yard, 3.50

Chute, 7 ft. wide, including timbering, timber delivered on gangway, per lineal yard, 2.85

Pillars, 1 ft. wide, including timbering, timber to be delivered on gangway, per lineal yard, .19

Crosscut, 4 ft. wide in clear, including timbering, timber delivered on gangway, per lineal yard, 2.20

Chute building, with 3 posts and 10 ft. collar, timber delivered on gangway, per lineal yard, 1.60

Chute building, with 2 posts, timber delivered on gangway, per lineal yard, 1.05

Chute building, with 1 post, timber delivered on gangway, per lineal yard, .80

Post crosscut, with lagging, timber delivered on gangway, per post, .25

Wing and battery post, timber delivered on gangway, per post, .50

Relief sets in chutes and breasts, timber delivered on gangway, per set, 1.60

All timbering, where timber is packed by miners, paid coubld 400 ft. above gangway.

When breasts are worked on car rate, price per car of coal, .74

Coal Creek Mine No. 4 Seam.

Breasts, 25 ft. wide, including timbering, timber delivered on gangway, per lineal yard, 5.80

Chutes 10 ft. wide, including timbering, timber
4567 delivered on gangway, per lineal yard, 3.15

Chutes, 7 ft. wide, including timbering, timber delivered on gangway, per lineal yard, 2.85

Crosscuts, 4 ft. wide in clear, including timbering, timber delivered on gangway, per lineal yard, 2.20

Pillars 1 ft. wide, including timbering, timber delivered on gangway, per lineal yard, .19

Chute building, with 3 posts, and 10 ft. collar, timber delivered on gangway, per lineal yard, 1.60

Post in cross cut, with lagging timber, delivered on gangway, per post, .25

Wing and battery post, timber delivered on gangway, per post, .50

Relief sets in chutes and breasts, timber delivered on gangway, per set, 1.60

All timbering, where timber is packed by miners, paid double above 400 ft. above gangway.

When breasts are worked on car rate, price per car coal, .80

Coal Creek Mine No. 3 Seam.

Chutes, 10 ft. wide, per lineal yard, 3.70

Chutes, 7 ft. wide, per lineal yard, 2.90

Chute building, with 3 posts and 10 ft. collar, timber delivered on gangway, per lineal yard, 1.60

Chute building with 2 posts, timber delivered on gangway, per lineal yard, 1.05

Chute building, with 1 post, timber delivered on gangway, per lineal yard, .80

Relief sets in chutes, timber delivered on gangway, per set, 1.60

4568 Post in crosscut, with lagging, timber delivered on gangway, per post, .25

Battery and wing posts, timber delivered on gangway, per post, .50

Pillars, 1 ft. wide, timber delivered on gangway per lineal yard, .19

All timbering where timber is packed by miner, paid double above 400 ft. above gangway.

Coal Creek No. 2 Seam.

Breasts, 20 ft. wide, including timbering, timber delivered on gangway, per lineal yard, 5.70

Pillar, 1 ft. wide, including timbering, timber delivered on gangway, per lineal yard, .21

Chutes, 10 ft. wide, including timbering, timber delivered on gangway, per lineal yard, 3.80

Chutes, 7 ft. wide, including timbering, timber delivered on gangway, per lineal yard, 3.15

Crosscuts, 4 ft. wide in clear, including timbering, timber delivered on gangway, per lineal yard, 2.55

Chute building, with 3 posts and 10 ft. collar, timber delivered on gangway, per lineal yard, 1.60

Chute building, with 2 posts, timber delivered on gangway, per lineal yard, 1.05

Chute building, with 1 post, timber delivered on gangway, per lineal yard, .80

Post in crosscut, with lagging, timber delivered on gangway, per post, .25

Wing and battery posts, timber delivered on gangway, per post, .50

Relief sets in chutes, timber delivered on gang-
4569 way, per set, 1.60

All timbering, where timber is packed by miner, paid double above 400 ft. above gangway.

Burnett Mine.

All local conditions to remain as at present unless changes are mutually agreed to.

Conditions as at present, and all deficient work to be made up to scale rate.

Prices of the Wilkeson Coal & Coke Co.

All local conditions to remain as at present unless changes are mutually agreed to.

Price per yard.

East 2 gangway, 6-½ ft. collar, 9-½ ft. spread, 6-½ ft. clear of the rail, timbers every 5 ft. ties 2 ft. track laid, 9.75

Counters, all in coal 6 ft. high or 30 ft. area, timbers set every 5 ft. 2.30

Top counters, 6 ft. in clear above rail, 5 ft. wide, all in coal timbers, every 5 ft. in clear, 3.15

Flat crosscuts, 4 x 4, timbers every 5 ft. 1.80

Angle chutes and crosscuts, 4 x 4 timbers every 5 ft. 1.70

Breasts or chutes, timbered 8 ft. in clear, collars and legs every 5 ft. centered post brattices, steps and braces, up and down pitch and crossways, 3.15

Pillars 90 sq. ft. 4.20

South 3 and East 3. Counters all in coal 6 ft. high or 30 ft. area, timbers set every 5 ft. 2.55

Top counters, 6 ft. in clear above rail 5 ft. wide, all in coal, timbers every 5 ft in clear, 6.35

Flat crosscuts, 4x4, timbers every 5 ft. 2.10

4570 Chutes, as now driven, 2.10

Pillars, 90 sq. ft. 4.75

South 2: Counters, all in coal, 6 ft high or 30 ft. area, timbers set every 5 ft. 2.30

Top counter, 6 ft. in clear above rail, 5 ft. wide, all in coal, timbers every 5 ft. in clear, 5.05

Flat crosscuts 4x4 timbers every 5 ft. 1.90

Chutes 4x4 inside, as now driven, 1.90

Medium-sized counter, as now being driven 3.15

Pillars, 90 sq. ft. 4.75

Wilkeson Coal & Coke Co.

Coke Ovens.

Prices as follows:

For drawing 10,000-lb. charge 1.05

do 11,000-lb charge 1.15

do 12,000-lb. charge 1.25

do 13,000-lb. charge 1.35

do 14,000-lb. charge 1.45

For forking 10,000-lb. charge .42

do 11,000-lb. charge .44

do 12,000-lb. charge .46

do 13,000-lb. charge .48

do 14,000-lb. charge .50

Levelnig, per oven, .15

Charging, per day, 2.60

Common labor, per day, 2.60

Gale Creek Coal Mines Co.

All local conditions to remain as at present unless changes are mutually agreed to.

All employes shall have house coal for their own con-
4571 sumption at the following rate:

Washed coal at bunkers, per ton,	2.75

Tool sharpening, except saws and axes free.

Company to furnish grindstone, placed in convenient place.

Queen Vein.

Gangway, 6 ft. x 9 ft. per yard, (including timbering and laying of track)	12.00
Gangway chutes, 6 ft. wide (includes timbering)	2.00
1st counter, 6 ft. wide (including timbering and laying of track)	2.50
Chutes, 5 ft. wide, (includes timbering)	1.85
Breast, 21 ft. wide (includes timbering)	4.00
Crosscuts, 5 ft. wide (includes timbering)	1.85
Pillars, per yard, 3 ft. x 30 ft. (includes timbering)	4.00

Starting time as at present 6:30 a. m. first trip.

Washington Union Coal Co.

Mining Rates at Hannaford Mine.

All local conditions to remain as at present unless changes are mutually agreed to.

Pick mining, 5 ft. or over, 52¢ per ton of 2,000 lbs. R. M.

46¢ per ton of 2,000 lbs. Mine Run for shooting and loading top coal.

Crosscuts in rooms, per yard,	1.80
Entry work, per yard,	2.50
Entry crosscuts, per yard,	2.00

In turning rooms, 10 feet to constitute width for the first 12 feet. Above 12 feet to be opened gradually.

Slope sinking to be paid at $3.00 per yard if wet. If
4572 it takes a rise, to be paid same as entry.

House Rent.

3, 4 and 5-room houses, $1.75 per room per month.

6-room houses, $10.00 per month.

7-room houses, $11.00 per month.

Water, $1.00 per month.

Coal for employes as at present, $2.00 per ton, delivered.

Mining conditions to remain as at present.

Mendota Coal & Coke Co.

Conditions.

All local conditions to remain as at present unless changes are mutually agreed to.

The scale of prices herein provided shall include the work required to mine, shoot and include the work required to mine, shoot and load coal, and to deliver the same to the entry; to lay track in the working place, set wheel posts, move same and probably timber the working place.

Starting Time.

Miners and Company men shall be at their working places at seven o'clock a. m. from April 1st to September 30th; and eight o'clock a. m. from October 1st to March 31st. Drivers will have mules harnessed and hitched to trip at same hours. Quitting time for miners and Company men to be 3.45 from October 1st to March 31st. Outside starting time to be same as above. Tripple time to be arranged to the best advantage to handle coal. Forty-five minutes to be taken for mid-shift.

Shooting Time.

Miners will not shoot at noon hour or at any other time before 3:40 p. m. from April 1st to September 30th, and 4:40 p. m. from October 1st, to March 31st. Any miner
4573 shooting before these hours, shall, when reported by the Superintendent be fined $2.50 for each offense, or discharged at option of Company. Special permission may be given by the Foreman to shoot at noon hour.

Tools.

Miners will provide their own ax and saw; other tools will be paid for by the miner when received from the Company, but when returned to the Company's office or place designated by the Company at Mendota, the miner will be refunded ninety per cent of amount paid, providing tools are in fair condition; ten per cent being retained to cover wear and tear on tools, Miners will be held responsible for breakage or

tools and will repair same; and tools returned in other than reasonable condition will be paid for according to valuation.

Duties of Miners.

The scale of prices herein provided shall include the work required to mine, shoot and load coal, and when possible, deliver same to the entry, to lay track in working place, set wheel posts, move same and properly timber working place.

Rents.

3-room house	6.50
4-room house,	7.50
5-room house,	9.00
6-room house,	10.00

Coal.

Lump, delivered,	3.00
Egg,	2.75
Nut	2.50

Mining Rates.

	Room and skip coal, per ton, 2,240 lbs.	.62
4574	Pillar coal, per ton 2,240 lbs.	.55

Entry: When 11 feet wide with framed timber sets with 9 foot spread, collars 6 feet in clear and 6-½ feet above track and 5 feet center to center, per yard, 3.00

Entry: When same as above in width, but posts and vaps instead of sets, per yard, 2.25

Back Entry or Air Course.

When 7 or 9 feet wide and with posts and cap for timbers, per yard, 2.50

When over 9 feet and to 11 feet with posts and cap for timbers, per yard, 2.00

Crosscuts.

Whether on entry or between rooms, but where between rooms to be on top or bottom bench as directed, but to divied on the bench, per yard, 1.75

Room turning.

To be 9 feet at mouth and 12 feet wide when 15 feet in, then gradually widen to 20 feet the room with, 7.50

Slope Sinking.

With framed timbers set 5 feet center to center, 9 feet, spread, collar 6 feet to clear and 6-½ feet above rail. Water to be kept out by Company, per yard, 3.50

Timbers.

Timbers to be delivered by the Company to the mouth of rooms, and in entries near the working face.

Track Laying.

Miners to lay all tracks in rooms, Company to lay the switches and the turn rails leading into room.

In the entries, air courses or break-throughs, miners to lay all temporary track, and in the entries the Com-
4575 pany to follow with permanent track.

Conditions.

The scale of prices herein provided shall include the work required to mine, shoot and deliver coal to the entry switch, where the miner will receive his empty.

In entries the miner will when required deliver his loaded car at the first frog from his working place, provided such frog is not over 90 feet from working face, and there receive his empty.

In the slope and back entry of slope Company will take loaded car from the face, and the miner will receive his empty car from first break-through from face.

Proper care shall be taken to prop all places in a workmanlike manner and as directed by the mine foreman.

Tool sharpening, except saws and axes, free.

Repairing of tools when desired by employes at cost to Company plus 10 per cent.

Company to place grindstones for miners' use at or near entrance to mine.

E. S. BROOKS,
President Washington Coal Operators' Association.

CHAS. E. JONES,
Secretary of Washington Coal Operators Association.

MARTIN J. FLYZIK,
President District No. 10 U. M. W. of A.

WM. SHORT,
Secretary District No. 10, U. M. W. of A.

F. FARRINGTON,
International Representative.

D. C. BOTTING,
Commissioner Washington Coal Operators Association.

ROBT. H. HARLIN,
International Board Member U. M. W. of A. and Dist. No. 10.

ERNEST NEWSHAM,
Vice-President District No. 10.

Scale Committee:
E. S. BROOKS,
C. E. JONES,
MARTIN J. FLYZIK,
WILLIAM SHORT,
FRANK FARRINGTON,
ROBERT HARLAN,
ERNEST NEWSHAM,
C. C. ANDERSON,
D. C. BOTTING.

4576 The Court: Is there anything further of this character?

Mr. Grant: No, that is all, with the exception of the two witnesses mentioned. It will take about twenty minutes to put in the testimony of those two witnesses.

The Court: Then we will stand adjourned for the noon recess until two o'clock.

4577 Friday, Nov. 16th, 1917. 2:00 o'clock, p. m.

Pursuant to adjournment as aforesaid, court reconvened at 2:00 o'clock, p. m., Friday, November 16th, 1917, the parties appearing as before, and the following proceedings were had:

B. TROUT, called as a witness in behalf of the defendants, having been duly sworn, testified as follows:

Direct Examination

By Mr. Covington:

Q. State your name, and talk out so that the jury can hear you.

A. B. Trout.

Q. Where do you live? A. Bokoshe, Oklahoma.

Q. What business are you engaged in?

A. In the cattle business and furnishing timber for the coal companies over there, mining props.

Q. Were you living in Hartford in 1914? A. Yes, sir.

Q. Where were you on the 17th day of July, 1914?

A. Well, most of the day I was working for the Bolen-Darnell Coal Company.

Q. What time did you go to work that day?

A. I went to work at two o'clock in the evening.

Q. Were you at home at noon? A. Yes, sir.

Q. Were you out at Prairie Creek or in that neighborhood at all during that entire day? A. No, sir.

Q. What time did you come out of your work on the 17th?

A. Ten o'clock that night.

Q. Ten that night? A. Yes, sir.

Q. You I believe were tried, charged with murder of some men up there? A. Yes, sir.

Q. And acquitted? A. Yes, sir.

4578 Q. Slankard also? A. Yes, sir.

Q. You worked on that day and were paid for it?

A. Yes, sir.

Cross-Examination

By Mr. McDonough:

Q. What kind of work were you doing?

A. I was firing the boilers.

Q. At what place?

A. Bolen-Darnell Coal Company; I don't remember the number of the mine, they only had one mine at Hartford.

Witness excused.

Mr. Covington: That is all we have. I just got information from Mr. Cameron that it is doubtful if he can be here before

tomorrow, anyway, and he is the only one that can testify with reference to books, to show that Trout was paid for that day, and I would like to have permission to call him if he comes in the morning, but if not, the defendants close their case.

The Court: Very well; I suggest this, if you can get him here before the rebuttal is completed, or by the time it is completed, the court will hear him. Otherwise, the case will be closed.

Mr. Covington: Yes, sir.

The Court: Let the record show that the defendants rest.

The defendants here rested their case.

(Testimony for Plaintiff's in Rebuttal.)

4579 T. A. NORRIS, called as a witness in behalf of the plaintiffs in rebuttal, being first duly sworn, testified as follows:

Direct Examination

By Mr. McDonough:

Q. Give your initials? A. T. A. Norris.

Q. Where do you live? A. Greenwood, Arkansas.

Q. Were you sheriff of Sebastian County in 1914?

A. Yes, sir.

Q. Did you live at Greenwood at that time? A. Yes, sir.

Q. How long had you been sheriff at that time?

A. I reckon about six years, I think that was during the last term.

Q. Did you hear of the trouble at Prairie Creek mine No. 4 and the Bache-Denman mines on July 17th, 1914?

A. I did.

Q. State whether or not on the night before that trouble, on Thursday night or on Wednesday night Mr. McLachlan, called you up and had a telephone conversation with you over the phone?

A. I cannot remember that he did, I can't remember. I don't think I had no conversation with anyone the night before.

Q. And on Wednesday night, the second night before, did he have any conversation with you?

A. I cannot remember that he did.

Q. Did he or anyone else from Hartford on Thursday night, or Wednesday night, state to you that the scabs were shooting

up Frogtown and want you to come over there and protect them?

A. No, sir, the first I knew of the Frogtown shooting
4580 was the day after the day following.

Q. Did you state to McLachlan or anyone else from Hartford in substance that the Federal injunction covered any shooting that the scabs might do?

A. No, sir, I would not have done that, I guess, because I understood at the time that the Federal injunction only covered the mining property.

Q. And [enjoinred] those people from interfering with the property? A. Yes, sir, with the property.

Q. I believe you said that you didn't hear of the trouble at Frogtown until the next day?

A. If I remember right, the shooting was Sunday night before the battle, and it was the day after.

Cross-Examination

By Mr. Covington:

Q. Just a night or two before the battle you did have a talk with someone?

A. Someone called me from Hartford and had a talk with me.

Q. But you don't remember who it was?

A. No, sir, and I don't remember what the conversation was.

Redirect Examination

By Mr. McDonough:

Q. In that conversation did that party tell you that the scabs were shooting up Frogtown, or they were shooting over there, and ask you to come over?

A. No, sir, that was not the conversation.

Witness excused.

4581 W. T. Snow, called as a witness in behalf of the plaintiffs, in rebuttal, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your full name. A. W. T. Snow.
Q. What is your occupation? A. Farmer.
Q. Where do you live? A. Hill, Oklahoma.
Q. How long have you lived there? A. Seven years.
Q. Do you know a man named Jesse Goatcher?
A. Yes, sir.

Q. Does he live in Hill?
A. He lives about a mile or a mile and a half from Hill south.
Q. A mile or a mile and a half from Hill?
A. A mile or a mile and a half south of Hill.
Q. How far does he live from your place?
A. About a mile and a half.
Q. How long have you known Jesse Goatcher?
A. Seven years.
Q. Are you acquainted with his reputation in that community for truth and veracity? A. Yes, sir.
Q. Is that reputation good or bad?
A. It is good as far as I know.

Cross-Examination

By Mr. Covington:
Q. As far as you know?
A. Yes, sir.

Witness excused.

4582 SAMUEL A. GARLAND, called as a witness in behalf of the plaintiffs in rebuttal, being first duly sworn, testified as follows:

Direct Examination

By Mr. Hull:
Q. What is your full name? A. Samuel A. Garland.
Q. Where do you live? A. Hill, Oklahoma.
Q. You are half Choctaw, Mr. Garland? A. Yes, sir.
Q. How long have you lived at Hill?
A. Well, I have lived at Hill, right in that neighborhood there ever since about '74.
Q. Since '74? A. Yes, sir.
Q. Do you know a man named Jesse Goatcher?
A. Yes, sir.
Q. How far did you live from him?
A. At the present I guess he lives about a mile and a half, a little southwest.
Q. Have you lived close to his place for a good while?
A. Yes, sir, I have been there all the time, except a little while when he left out, he moved out, and went to Arkansas.
Q. When he was over in Arkansas for one year?
A. I don't remember just how many years he was out there.
Q. He was working what is called the Bonner place in 1914, do you remember that? A. I can't say what place.
Q. What is your business? A. Farmer.
Q. Has Jesse Goatcher ever worked any of your land?

A. Yes, sir, he farmed there on my land about two years.
Q. How long have you known him? A. 22 years.
Q. How long? A. About 22 years.
Q. Are you acquainted with his reputation in the community for truth and veracity? A. Yes, sir.
Q. Is that reputation good or bad? A. Good.

Witness excused.

4583 W. R. IRVIN called as a witness on behalf of the plaintiffs, in rebuttal, being first duly sworn, testified as follows:

Direct Examination

Questions By Mr. Hull:
Q. What is your full name? A. W. R. Irvin.
Q. What is your occupation? A. Farming.
Q. Where do you live? A. Near Hill.
Q. How long have you lived there?
A. About 13 years.
Q. Do you know a man named Jess Goatcher?
A. Yes, sir.
Q. Do you live anywhere near him?
A. Oh, something like a mile and a half or two miles.
Q. How long have you known him?
A. I have known him about, ever since I have been in Oklahoma, about 13 years.
Q. About 13 years? A. Yes, sir.
Q. Are you acquainted with his reputation in that community? for truth and veracity? A. Yes, sir.
Q. Is that reputation good or bad? A. Good.

Cross-Examination

Questions by Mr. Covington:
Q. Who did you ever hear say it was good?
A. What did you say?
Q. Who did you ever say that his reputation for truth was good?
A. Well, I never heard anything contrary.
Q. You just never heard anything against him?
A. No, sir.

(Witness excused.)

4584 JESS GOATCHER recalled by the plaintiffs, in rebuttal, having been previously sworn, testified as follows:

Direct Examination

Questions by Mr. Hull:

Q. Your name is Jess Goatcher? A. Yes, sir.

Q. You are the same Jess Goatcher that testified in this case same days ago? A. Yes, sir.

Q. You stated in your testimony something in regard to Ed Baker coming to your house with a pair of shoes that had some blood on them, and that is just to recall that to your mind. Do you know where that Ed Baker worked?

A. No. 6 Central mine.

Q. You know that? A. Yes, sir.

Q. And you testified to that in your previous testimony?

A. Yes, sir, of course I never worked with him myself, but he told me that was where he worked, and he went to work with the other men, and I lived on the road, and saw him pass in and out.

Q. And you know that he worked at No. 6? A. Yes, sir.

Mr. Hull: That is all.

Mr. Covington: No questions.

(Witness excused.)

4585 Mr. Hull: I want to offer now, if the court please, from plaintiffs' exhibit 59, already identified by a former witness, the check-off list of the Central Coal & Coke Company, Mine No. 6, at Huntington, so much of the sheet marked "Mine 6 Huntington, Arkansas, month of July 15, 1914", sheet No. 3, that shows that Ed Baker was on the list and was checked off to the amount of $2.65, showing a pay roll number of 121.

Also from the same exhibit, so much of the sheet headed "Mine No. 6, Huntington, Arkansas, month of April, 1914", sheet No. 5, as shows that Ed Baker, with a pay roll number of 269, was on that list and received $2.30

Mr. Covington: We object to that unless they will identify this man as being the same man. That doesn't indicate that the man working at Huntington was the same party.

The Court: I think it is sufficient identification in this, for this witness has testified that he told him he worked there, and he saw him with the men going to work there. Now, I think that is sufficient identification to go to the jury.

Mr. Covington: My understanding was that Baker said that he worked at Hartford?

Mr. Hull: What Baker said so? Your Baker or our Baker?

Mr. Covington: We have so many I don't know which one.

Mr. Hull: The whole point is that Ed Baker that testified here, and denied this, said again and again that he worked at No. 4.

The Court: The court has ruled on it.
To which ruling and action of the court the defendants and each of them at the time duly excepted, and still except.

Mr. Hull: We offer from Plaintiffs Exhibit 50, so much of the pay roll for April 15, 1914 as shows that number 269 was Ed Baker, being the pay roll of Mines numbered 2, 3 and 6.

4586

We offer so much of the plaintiffs' Exhibit 58, heretofore identified by plaintiffs' witnesses, as shows that on the checkoff list for Local Union 1526, James McNamara, Jr., Secretary, that the name of Ed Baker, spelled with two "D's ", appears on Sheet No. 4, of April 15th, 1914, checked off, and that he received $2.50.

HEBER DENMAN, recalled on behalf of plaintiffs in rebuttal, having been previously sworn, testified as follows:

Direct Examination

By Mr. McDonough:

Q. Mr. Denman, during what part of 1914, if any, were you in Pennsylvania?

A. I was there practically all of the year of 1914.

Q. Were you in Sebastian County, Arkansas, in April, May, June or July, 1914?

A. Yes, sir, I was in Sebastian County, Arkansas, in the last part of June. I came back here about the 24th of June and remained until about the 2nd of July.

Q. Up to the 24th of June of 1914, you were not in this county?

A. No, sir, I was in Pennsylvania during that period.

Q. Mr. Denman, do you know of Pete Stewart, President at that time of the United Mine Workers of America?

A. Yes, sir.

Q. Did he sit in this court room during the beginning of this trial, near the attorneys for the defendants, for a number of days during the trial? A. He did.

Q. Do you know James Slankard? A. Yes, sir.
4587 Q. Have you seen him about the court house and in town during this trial?
A. I have seen him in town every day.
Q. Do you know Clint Burris? A. I do.
Q. Have you seen him during the trial, or in town during the trial?
A. I have seen him in town.
Q. Do you know a man called Oscar Layton,—I don't mean do you know him personally.

Mr. Neal: We don't think that is proper rebuttal, and we object to it.

The Court: The court doesn't care to discuss it before the jury, wherein he thinks it might be.

Mr. Neal: We will withdraw the objection.

A. I know who he is.
Q. Do you know whether or not he has been here during the trial?
A. Yes, sir, I have seen him in the court room and in town.
Q. Now, Mr. Denman, do you know Sandy Robinson?
A. Yes, sir.
Q. Have you seen him here during the trial?
A. Yes, sir.
Q. Do you know John Manick?
A. I think so. Yes, I used to know him.
Q. Have you seen him here during the trial?
A. No, sir, not to my knowledge.
Q. Now, Mr. Denman, you heard the statement, did you, of Mr. Shaw, as to the Coronado Coal Company property being practically worked out, did you hear that statement?
A. I did.
Q. I wish you would explain, Mr. Denman, referring to defendants' Exhibit 27,—what part, if any, of that mine is worked out, or was worked out at the time of the de-
4588 struction of the property?
A. All this portion in here that shows, that was worked out (indicating), and this was worked out (indicating), to the extent that this map shows. This survey was made just previous,—there was practically no work done after this map was made, and this shows the amount worked at this portion. Now, all this line that is not worked out, this was not worked out over there (indicating); this was not worked out (indicating), and none of that was worked out (indicating). And all of this was not worked out (indicat-

ing). Then in addition to this, there was 138 acres that lay over in there (indicating); it is not shown, this map is not large enough to take it in, but there was 138 acres leased from the Arkansas Land & Mining Company. Now, there was the shaft, right there, known as the Smokeless Fuel Company shaft, and this land was in a triangular shape, and there was a 40 there and two 40's there. They were more than the regulation forties, but there were two in a row here and this one up here (indicating).

Now, this forty had been practically worked out by the Smokeless Fuel Company, and it left 80 acres down here in the southern part untouched. Now, this shaft of the Smokeless Fuel Company worked out practically everything above the shaft, and we cut in up there to the line, they got over the line on our land, and we got the leasehold from the Frisco Railroad; that was from a subsidiary company. Now, there was forty per cent of this coal worked out.

Q. And that was in your testimony the other day?

A. Yes, sir, that was in my testimony the other day.

Q. Now, you refer also to another map, and I will ask you to point out on plaintiffs' Exhibit No. 161, I wish you would point out the location of that property, and give a description of it.

4589 A. Now, this property enclosed in yellow was the Coronado Coal Company property. Now, this land there is the portion shown of that mine map, and this is the 130 acres that I mentioned as not being on the mining map, for the reason that this was acquired afterward, during the year 1913, and now, that heavy part is intended to be the shaft that was sunk on the Coronado property. The entry came down along like that, and ran right along that line, and it had never gotten over into this. This is the property shown on the mining map which had largely worked out. This had not been touched. That forty up above the shaft, what they call the Smokless Fuel Company shaft, and everything north of it, had been worked on that property, but that left this 80 acres intact; the 80 acres south of the Smokeless Fuel Company shaft.

Cross-Examination

By Mr. Covington:

Q. From whom did you get the lease to the 130 acres?

A. I think it is known as the Arkansas Land & Mining Company, I am not sure about the exact title.

Q. That is the same 130 acres that you testified to the other day? A. Yes, sir, the same one.

Q. Did you not state that there was no part of that 130 acres worked out, that you had gone close to the line, but had not worked into it at all?

A. I stated that we had not worked any of it.

Q. Now, you stated that north 40, on the north side of that property, was worked out by some mining company?

A. Yes, sir, by the Smokeless Fuel Company.

Q. By the Smokeless Fuel Company? A. Yes, sir.

Q. When was that worked out?

4590 A. Just previous to our taking this lease over, they abandoned their mine.

Q. Now, on the line between the north and south 40 of this particular 130 acres? A. Yes, sir.

Q. Now did they not drive 575 feet into that south 40, and abandon it, and pull the tracks, because there was no coal there? A. No, sir.

Q. How much coal did you say there is in that land?

A. About 80 acres.

Q. What is the height of the vein?

A. About 4 feet.

Q. About 4 feet of coal? A. Yes, sir.

Q. Were you ever in it?

A. No, sir, but I had a report of the engineer, our engineer.

Q. Were you ever in it, and know anything about it?

A. I was not in that slope, no.

Q. The rails were pulled out, were they?

A. Yes, sir, the mine is abandoned.

Q. They abandoned the mine, the property? A. Yes, sir.

Q. When did you get that lease? A. In 1913.

Q. In December, was it?

A. I can't state the month.

Q. Just after you decided to go on the open shop plan, is that it?

A. No, the lease was acquired while I was in this country, and I left before they decided to go on the open shop plan.

Q. Pardon me?

A. I said the lease was acquired while I was here, and I left before they went on an open shop plan. I left the end of the year 1913.

Q. Who was conducting the Smokeless Fuel company and its operations, on this particular property?

A. Mr. C. C. Woodson.

4591 Q. Mr. C. C. Woodson? A. Yes, sir.

Q. I believe you stated also that you intended to mine that 130 acres from the Coronado shaft? A. I did.

Q. How were you going to mine that lower 40 from the Coronado shaft with a squeeze on the south side there?

A. There was no squeeze, that was a mistake.
Q. That is a mistake?
A. There was no squeeze on the south side.

Redirect Examination

By Mr. McDonough:

Q. I wish you would explain, if you will, Mr. Denman, why the property, the 80 acres, would be mined out from the Coronado Coal Company property, and the other, the Smokeless Fuel Company, would not?

A. Well, we had a better way for approaching that 80 acres. We had a dip in there, running down along the line that would go into the low side of this 80 that I am speaking of, that is a part of this 138 acres and Mr. Woodson would have to have gone straight down the hill from the shaft. And he had some controversy in regard to it and he worked out the upper part and gave it up. He also had a controversy with us in regard to getting over our line.

[Recorss] Examination

By Mr. Covington:

Q. Mr. Denman, you were speaking about Pete Stewart and some other fellows. You brought suit against them?
A. Yes, sir.
Q. You do not deny that they had a right to come in and defend themselves against your suit? A. No.

Witness excused.

4592 JOHN SHALEEN, recalled as a witness in behalf of the defendants, having been previously sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. You are the same John Shaleen that testified in this case before? A. Yes, sir.
Q. You may state, Mr. Shaleen, when you first went to Prairie Creek? A. On the morning of the 15th of April, 1914.
Q. You took some men in with you on that day?
A. Yes, sir.
Q. Did you have, as a part of your business down there, the making out of the time sheets for the men? A. Yes, sir.
Q. Have you those time sheets with you? A. Yes.
Q. Are they in your handwriting? A. Yes, sir.
Q. State the last day that Arch Caldwell worked down there? A. The last day he worked was on the 23rd of May.

Q. You know that from having consulted those records, do you, Mr. Shaleen? A. Yes, sir.

Q. Can you state from your time sheets how many coal diggers there were there on June 6th? A. Yes.

Q. You know that June 6th was the day that John Cameron left as superintendent? A. Yes.

Q. State how many coal diggers were there on that date?

A. We had 30 or 40.

Q. You had 30 or 40 coal diggers? A. Yes.

Q. And you had a pit boss? A. Yes.

Q. Who was the pit boss? A. W. J. Hoadley.

Q. And John Cameron had hired him? A. Yes.

4593 Q. How long had he been there when Mr. Cameron left?

A. He had been there about two weeks, I judge.

Q. What salary was paid him, $110.00 a month?

A. Yes, sir.

Q. A pit boss is a coal digger, isn't he? A. Yes.

Q. What is the job of a pit boss?

A. Well, he is practically underground manager.

Q. Did you attend the trial of Riley Bailey? A. Yes, sir.

Q. You were mine foreman at that time? A. Yes, sir.

Q. Were you one of the witnesses at that trial? A. Yes.

Q. Did you take the time sheets of the mine over to that trial? A. I took the time books.

Q. Do you remember the circumstances of that charge?

A. Yes, sir.

Q. And of the defense? A. Yes, sir.

Q. And of the result of the trial? A. Yes, sir.

Q. Who was the accuser in that case? A. Miss Johnson.

Q. Were you in the court room the other day when she testified? A. Yes, sir.

Q. Is she the same girl that was the accuser in that case?

A. Yes, sir.

Q. State what her accusation was, what she claimed Riley Bailey had done?

A. She claimed that Riley Bailey came in with a bunch of men from Prairie Creek station one night and called her a little slut and told her to go in the house.

Q. What did you prove or attempt to prove by that time book?

A. That Riley Bailey did not come in that night, that he came in May the 12th.

4594 Q. Do you reemmber the date of that trial?

A. Well, I don't remember the date. That was sometime after Bailey came out of the hospital.

Q. You remember that Cooper Langford came down there with Hank Tipton and some other men? A. Yes.
Q. When was that? A. About the 15th of May that was.
Q. How long after that was Bailey arrested?
A. Two or three days.
Q. Do you remember of Miss Johnson being called on to identify Riley Bailey as the man that spoke to her? A. Yes.
Q. What did she say in that connection?
A. She said that she didn't know whether he was the man or not, but it was one of those "old scabs" that insulted her.
Q. Did she say anything about [described] the man?
A. She said she went home and described the man that insulted her to her brother, and her brother said it was Riley Bailey.
Q. After the evidence was all taken in that case, what did the Justice of the Peace say?
A. He fined Riley Bailey one hundred dollars and costs.

Cross-Examination

By Mr. Covington:
Q. You say that John Cameron hired Hoadley?
A. Yes, sir.
Q. Where did he get him? A. Hoadley?
Q. Yes. A. He came from Bokoshe, Oklahoma.
Q. Who brought him in there?
A. He came in himself, him and his two sons.
Q. You say you carried a crowd of men down there with you? A. Yes.
Q. Did you carry Jim Prince, J. L. Prince?
4595 A. No, he came after I went in there.
Q. How long was it after you got there before Jim Prince arrived?
A. I could not just say. It was some time after we first went down there.
Q. He was a guard there for a long time, wasn't he?
A. Not very long, no, sir.
Q. How long, about? A. Well, probably a week or two.
Q. You had known him quite a while, hadn't you?
A. No, sir.
Q. You say you had forty coal diggers?
A. About that; somewhere between 30 and 40.
Q. Who were they? Name some of them.
A. I can by looking at my sheets.
Q. Name some who were coal diggers?
A. Will Young, Charley Cheek, Harry DeMoss, Tony Les, Frank Lamistkowski, John Toney, Bill Bohannon, Ed Hoadley, W. J. Hoadley, Irvin Howard, Jim Calclasure. That is all I can think of just now.

Q. Will Young, and most of those fellows, just spent the night down there and went back to Johnson County the next day, didn't they? A. Sir?

Q. Most of those fellows you named you brought in there with you from the Pennsylvania Mining Company, didn't you?

A. No, sir.

Q. And they did not remain there but just a day or two until they went back home?

A. No, sir, they remained there a long time.

Q. Did they? A. Yes.

Q. All of the ones you have named?

A. I don't know that just all of them did, but some of them did.

Q. How long did Will Young remain there?

A. I don't know. He was there on July 17th.

4596 Q. And he went there about July 10th, didn't he?

A. No, sir, he was one of the first men in there.

Q. Do you mean to say that all of these people were there when Mr. Cameron left there? A. Yes, sir.

Mr. Covington: All right, that is all.

Redirect Examination

By Mr. Hull:

Q. Have you your records there, your time sheets?

A. Yes, sir.

Q. This is June 6th, 1914? A. Yes, sir.

Q. That is in your handwriting? A. Yes, sir.

Q. This is a list of all of the employees at the mine on that date? A. Yes, sir.

Mr. Hull: I will ask that this be identified as plaintiffs' Exhibit No. 210.

Q. Now, Mr. Shaleen, will you read from that list the names of the men that you know were coal diggers there on June 6th?

A. You mean the men I had personal knowledge of that were coal diggers before that date?

Q. No, that were there able to do the work of a coal digger, that you as foreman knew were there and able to do the work of coal diggers?

A. W. J. Hoadley, Ed Hoadley, T. Marko, C. A. Russell, M. Hudson, Irvin Howard, Jim Calclasure, Ross Gullet, Walter Orst, Frank Lamistkowski, William Young, Sam Brown, S. L. Owens, Will Dequasie, John Dragon, Charles Cheek, George Peat, Walter Fisher, Tony Les, Tony Boreski, Charles Bordorski, John Toney, Jim Gullet, H. Lovell, C. M. Hardin, Harry

Demon, J. R. Shanklind, Andrew Kazzmisk, John Oroloski, Joe Reyf, J. Dequasie, I. J. Dunlop, J. D. Chappel.

4597 Recross Examination

By Mr. Covington:

Q. Is I. J. Dunlap, Harry Dunlap? A. No, sir.

Q. Those men were there for long periods of time, were they? A. Most of them.

Q. And you got out just one car of coal during that time?

A. We got out more than one car of coal.

Redirect Examination

By Mr. Hull:

Q. If you did not get out more than one car of coal, it was due to interference in all sorts of ways?

A. There was considerable interference.

Q. The mines were flooded, were they not? A. Yes.

Q. And you were working as hard as you could to get the mines pumped out? A. Yes.

Q. Were there any men there between April 6th and April 15th, when you went down there, to your knowledge?

A. I was told there were.

Q. When you got down there, Jim Slankard had guards to protect that property from interference, did he?

A. Not that I know of.

Q. Your men were there on guard? A. No, sir.

Q. I neglected to ask you, Mr. Shaleen, what you heard Pete Graham say on July 15th, and where you heard it?

A. I was waiting to get the Midland Valley train to Ft. Smith, at the Prairie Creek station and Pete Graham was talking to some other union miners around there and told them, he said, "We are going to lose a lot of our boys over this, but we can't let any scabs stay in this country."

Q. When did you first know that that man was Pete Graham?

4598 A. When he was here on the stand.

Q. You recognized him as the man that said that, when he was on the stand here the other day? A. Yes.

Recross Examination

By Mr. Covington:

Q. How often did you see Pete Graham while you were there? A. I saw him several times.

Q. Did you remain at the mine all of the time? I mean in and around there? A. Nearly all of the time.

Q. You made periodical trips to bring in these men, didn't you? A. No, sir.

Q. What position do you hold with these companies now?

A. None only I am down here on this case.
Q. What position did you hold then?
A. Foreman, around on the top. I had general charge of the work.
Q. As foreman? A. Yes, sir.
Q. You had charge of the top work?
A. I had charge of practically all of it.
Q. You had charge of the gun squad most of the time, didn't you? A. No, sir, not any more than,—
Q. (interrupting). You were in charge of them a good deal?
A. Well, I had practical charge of them in a way, yes.

Mr. Covington: That is all.

Witness excused.

Mr. Drinker: We offer from plaintiffs' Exhibit 191, being the sixth semi-annual report from April 1, 1914, to September 13th, 1914, of Fred W. Holt, from page 11, under heading, "Pension List", the following, "W. H. Cluck, $75.00."

4599 If the court please, we want to reoffer the article in the 1915 Journal about Mr. Howat, in rebuttal of Mr. John P. White's testimony that the National organization entire home rule to the districts and did not interfere with them, and I will ask that your Honor kindly glance at it.

Mr. Warrum: The defendants separately object to this for all of the reasons heretofore given.

The Court: The ruling will be the same as when it was offered before. The objection is sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: This is the article on page 11 of the Journal of October 7th, 1915.

Mr. McDonough: If your Honor please, we offer in evidence a certified copy and appearance, or rather, motions of the defendants filed in the Circuit Court of Appeals. I have the original which was served on me here, which is signed by counsel on the other side, and I telegraphed for a certified copy, but in order to avoid delay I would like to use this copy, with the privilege of substituting the certified copy when it comes from the Clerk of the Circuit Court of Appeals. The object of this, if the court please, is to meet the

evidence offered by the defendants, in showing the date when the complaint was filed. I assume the object in introducing that testimony was to set up the statute of limitations, and this is to show the appearance of all of the defendants in the Circuit Court of Appeals, and that is the object of introducing this motion.

Mr. Warrum: The object of introducing the date of
4600 the beginning of the suit was in order that an intelligent understanding might be had of the evidence introduced after that time, both by the court and the jury and that is all.

The Court: [Of] it is here for whatever purpose it may be competent to prove, and I suppose it might be used for both purposes. Have you made the offer?

Mr. McDonough: Yes, I have made the offer.

The Court: It will be received without objection?

Mr. Warrum: The defendants separately object to the introduction in evidence of the document now offered for the reason that it is incompetent and tends to throw no light on any of the issues or issuable facts in this case.

The Court: Do you waive objection on the ground that the certified copy is not produced?

Mr. Warrum: Yes, we waive any technical objection.

The Court: Then it will be received. The objection is overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

(Said motion so offered in evidence, marked Exhibit No. 211, is in the words and figures following to-wit):

Exhibit 211.

4601 In the District Court of the United States, Eighth Circuit.

A. S. Dowd, Receiver of the Coronado Coal Company, et al, Plaintiffs in error,

vs.

United Mine Workers of America, et al., Defendants in Error.

Motion to Dismiss Appeal and Writ of Error.

Comes now the United Mine Workers of America; United Mine Workers of America, District No. 21; Local Union No.

340; Local Union No. 574; Local Union No. 560; Local Union No. 586; Local Union No. 1130; Local Union No. 1159; Local Union No. 1526; Local Union No. 1530; Local Union No. 1565; Local Union No. 1810; Local Union No. 1814; Local Union No. 1824; Local Union No. 1842; Local Union No. 1912; Local Union No. 1934; Local Union No. 2027; Local Union No. 2053; Local Union No. 1934; Local Union No. 2027; Local Union No. 2053; Local Union No. 2110; Local Union No. 2160; Local Union No. 2316; Local Union No. 2494; Local Union No. 2766; Local Union No. 2769; Local Union No. 2770; Local Union No. 2772; Local Union No. 2769; Local Union No. 2770; Local Union No. 2272; Local Union No. 2841; Local Union No. 2880, names as defendants in error in this cause, and named as defendants in the complaint in the court below (P. R. 37-38) and move the court to dismiss the appeal and writ of error herein as to them upon grounds and for the following reasons, to-wit:

1. The said defendants in error, defendants in the complaint in the court below, are voluntarily unincorporated associations or labor unions, have no legal entity, not registered under any Trade Union Law of the United States,
4602 or of any State, or country, and can not sue or be sued; that they are not engaged in any kind of business in the United States or any State or country.

And also come all of the defendants in error, named as defendants in plaintiffs amended complaint and their amendment thereto, and move the court to dismiss said writ of error and appeal for the following reason:

That the District Court of the United States, for the western District of Arkansas, Fort Smith Division, had before it the question of whether or not it had jurisdiction of the case as presented by the plaintiffs in their said second amended complaint; that in deciding that question the said District Court decided in favor of the defendants and held that it did not have jurisdiction of the said case; that the plaintiffs thereupon took said case to the United States Circuit Court of Appeals, Eighth Circuit, upon a writ of error and appeal, upon the sole question of whether or not the said District Court did have jurisdiction of it, and that is the only question they presented to the said Circuit Court of Appeals on said writ of error and appeal, and in their brief. That the said plaintiffs have improperly brought their said case to this court for the reason that they should have carried it to the

supreme court of the United States, instead of to the Circuit Court of Appeals.

These defendants further show to the Court that the said plaintiffs did carry their case to the Supreme Court of the United States where it is now pending on writ of error and appeal on the same question of jurisdiction, and where they are asking a decision of the same question that they are asking this court to decide. (P. R. 74, 78, 80). That citation
4603 from the supreme court of the United States has been served upon all of these defendants in error. (P. R. 80).

Wherefore, the above named defendants in error, and all of the defendants in error in this case, pray this court to sustain this motion upon the respective grounds stated herein, and that the case be dismissed for the reasons given.

(Signed) COVINGTON & GRANT,
Attorneys for the Defendants in Error.

I hereby acknowledge service of a copy of the foregoing motion on this the 24th day of April, 1916.

.....
Attorneys for Plaintiffs in Error."

4604 Mr. Hull: If the court please, we have been unable to get in touch with the stenographer, but since going out I have reminded that two witnesses were telegraphed for at Hartford this morning, on quite an important matter that I have overlooked entirely, and there is a third matter, the matter of the minutes. Mr. McLachlan went to Midland this morning upon our calling the court's attention of those minutes, and I would beg for a continuance until tomorrow morning, upon those three grounds. It won't take more than ten or fifteen minutes. I had in mind that in the meantime the court might hear argument on the motions, if the court feels inclined to make use of the rest of the afternoon, without the jury, and if we can put that in, it won't take more than 15 or 20 minutes. The two witnesses from Hartford are on one fact, and I don't think there will be and cross examination.

The Court: Will it be satisfactory to you gentlemen on the defense to proceed with your motions?

Mr. Warrum: We would rather do it after they closed.

The Court: I think, if you feel that your interests demand, even though it is an hour or two's delay, that you should be granted this delay. I will let you have the time in the morning, and I will hear you on the motions in the morning. I suppose you gentlemen will agree to let the jury go while the motions are being presented?

Mr. Warrum: Oh, certainly.

The Court: Of course, strictly speaking, they are supposed to be here in the court room during the trial of the case, even while that is going on, but by agreement we can let them go. We will now stand adjourned until tomorrow morning, Saturday, at 9:30.

4605 **Fort Smith, Arkansas.**

Saturday, Nov. 17th, 1917, 9:30 o'clock, a. m.

Pursuant to adjournment as last aforesaid came all of the parties as before on Saturday, November 17, 1917, at 9:30 o'clock, a. m., and the trial of the case proceeded as follows:

MRS. MAGGIE CROSS, called as a witness in rebuttal in behalf of the plaintiffs, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. State your name. A. Maggie Cross.

Q. You have been a stenographer? A. Yes, sir.

Q. And typewriter? A. Yes, sir.

Q. And you have been doing some work for Mr. Finley, the Receiver in this case? A. Yes, sir.

Q. Do you remember some time in the spring of 1917, of the present year, of taking some dictation from John Cameron? A. Yes, sir.

Q. I show you plaintiffs' Exhibit No. 219 and will ask you if you have examined the pages numbered from 1008 to 1027 of that document, and if you can state whether or not you wrote that on the typewriter? A. Yes, sir; I did.

Q. You can identify that by certain mistakes that you made and which are corrected on the carbon, that you remember making? A. Yes.

Q. State who dictated that?

Mr. Neal: If your Honor please, we object to the testimony of this witness along this line, and the answer to the question asked the witness, for the reason that it is not in

any sense of the word proper rebuttal, in our judg-
4606 ment; that it is not proper impeachment, and that the testimony sought to be introduced before the jury is not competent or material to any issue in this case.

The Court: The objection is overruled. The witness has come on the stand and testified to circumstances under which this statement was made, and this to clear up a dispute, and it is clearly rebuttal.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Q. Who dicated that? A. Mr. John Cameron.
Q. Did Mr. Bache dictate any of it? A. No, sir.

Mr. Neal: If the court please, we ask that the last answer be stricken out, because the record shows that it is not in contradiction of Mr. Cameron's testimony.

The Court: I do not think it is.

Mr. Neal: His answer was that he dictated a part of it.

The Court: He may have made such answer, but as I remember he stated that Mr. Bache was not even present when he dictated it.

Mr. McDonough: This has reference to a different statement. This was made this year. Mr. Cameron dictated this in the spring of this year.

The Court: I think I will let the jury be the judge of whether it is contradictory. It is possible that I may not have the right story in mind. Gentlemen of the jury you may take the testimony and consider it in connection with what you remember to be the evidence of Mr. Cameron. If there is no contradiction, there is on harm done.

Mr. Neal: We add the objection that the matter was
4607 brought out by the plaintiffs on his cross-examination and by which the defendants are not bound.

Mr. Warrum: Defendants separately object to the introduction of the document sought to be introduced at this time.

The Court: The objection is sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

4608 ELMER BOHANNAN, recalled as a witness in behalf of the plaintiffs in rebuttal, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. Your name is Elmer Bohannan? A. Yes.

Q. You are the same Elmer Bohannan who testified here before? A. Yes.

Q. And you are here now in response to a telegram from me asking you to come here? A. Yes, sir.

Q. State to the jury where you were working in July, 1914?

A. I was working for the Arkansas Coal & Mining Company.

Q. You had an interest in that mine, did you? A. Yes.

Q. Did you bring with you, in response to my telegram, certain documents that showed you had worked there at that time? A. Yes.

Q. State to the jury what became of those documents?

A. Yesterday evening, somewhere about 4:40, or 5:40,—4:40, I left the avenue,—

The Court: I cannot hear the witness.

Q. Speak up, Mr. Bohanna, so you can be heard. Where was this?

A. Coming up Sixth street about 4:40.

Q. Last evening? A. Yes.

Q. Go ahead.

A. As I,—just before I got to the Western Union, someone hollered at me and turned and saw Roy Smith and John Pattie and Roy Smith said to me, "Elmer, what made you get on the stand and swear to a God damned lie?" I said, "I didnt know I swore to any lie." He said, "You swore you were connected with the Arkansas Coal & Mining Company at the.....mine in 1914, and you

4609 were not." And I reached into my pocket and got the statements out to show that I drew pay in July and August and he pulled off and hit me.

Q. Where did he hit you?

A. On the side of the head.

Q. Did he knock you down? A. Yes.

Q. When you got up did you look for your papers?

A. Yes.

Q. And could you find them?

A. No, I couldnt find them, and I had them in my hand.

Q. You looked and could not find those papers?

A. Yes, sir, I couldnt find them.
Q. Where had John Pattie and Roy Smith gone?
A. They walked back down the street a few steps and stopped.
Q. State what damage was done to your head?
A. It skinned my ear a little and I had a knot there (indicating).
Q. And that bunch or bump you showed me at 5:30 last night was a result of the blow, was it? A. Yes, sir.
Q. And the bleeding ear you showed me at that time was a result of the blow? A. Yes, sir.
Q. Do you know where those papers are now?
A. No, sir.

The Court: Who are these men?

Q. Who is Roy Smith?
A. He is Roy Smith from Hartford.
Q. Do you know where he lives?
A. Yes, he lives at Hartford.
Q. Do you know where he works? A. No.
Q. Do you know where he worked in 1914?
A. I dont know, but I think at No. 4 Central, I am not sure.
Q. He was a union miner? A. Yes.
Q. And John Pattie also? A. Yes.
Q. Do you know where John Pattie works?
4610 A. No, I am not sure. He worked at the Bolen-Darnell, No. 4 Central.

Mr. Hull: These are both men that were mentioned in the suit before.

Q. Now you may state what those papers were?
A. One of them showed that I was paid $50.00, at the rate of $100.00 a month, for the last half of July, 1914.
Q. You showed that to me yesterday morning, did you, Mr. Bohannan? A. I did.
Q. What did the other one show?
A. The other one was for four days work in August, rated at four dollars a day.
Q. And you showed that to me yesterday morning also?
A. I did.

Mr. Hull: That is all.

Cross-Examination

By Mr. Covington:
Q. Mr. Bohanna, who was present when that difficulty arose?

A. There was several arrived on the scene, but I cannot name them.
Q. Can you name any of them? A. No.
Q. Were any of the officers of the town there?
A. No.
Q. Where did this occur, on what street?
A. On Sixth street here.
Q. On Sixth street?
A. Yes, between the Western Union and Harper's garage.
Q. What time was that?
A. It was about 4:40, just a few minutes before train time.

Witness excused.

The Court: Mr. Marshal, send for the United States District Attorney and tell him I want to see him.

4611 A Person In The Court Room: I am the Assistant, the United States Marshal is out of town.

The Court: The court will recess for a few minutes. I want to talk to the Assistant Marshal.

(Court here retired to his chambers with the Assistant Marshal.)

(When the court resumed the Bench, the trial proceeded as follows):

4612 WILLIAM RUSH, called as a witness in behalf of the plaintiffs in rebuttal, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:
Q. State your name. A. William Rush.
Q. You live in Hartford? A. Yes.
Q. Were you a part owner of the Arkansas Coal Mining Company in 1913? A. Yes.
Q. Was William Bohannan a part owner of that mine?
A. Yes.
Q. He held the same interest you held in it, did he?
A. Yes.
Q. You lived there in December, 1913, did you?
A. Yes, I quit the service of the Arkansas Coal Company in December, 1913.
Q. And about a week ago what conversation did you have with Jim Slankard about this matter?

A. He asked me when Bohannan severed his connection with the Arkansas Coal Company as pit boss.

Q. Did he ask you about a letter?

A. Yes, he wanted me to write him about it, so I did. I told him I didnt know,—as near as I remember he worked two or three months after I did and that was all that I knew, because I was not in a position,—I was not keeping up with the business, I was working for myself.

Q. Did you state that in the letter to Jim Slankard?

A. Yes. Stated I thought he quit somewhere along about the first of March. I think that is what I stated in the letter.

4613 Cross-Examination

By Mr. Grant:

Q. That is what you stated in the letter to Slankard?

A. Yes.

Q. He asked you to find out from your books when he ceased to work for the company and you said you would look at the books? A. I told him I could not find the books.

Q. And you wrote him a letter and said that Bohannan quit work about that time in 1913? A. Yes.

Q. But you dont know exactly when?

A. No, I would not be positive about when he quit.

Witness Excused.

4614 EDGAR SEXTON (or Weston) called as a witness by the plaintiffs in rebuttal, having been duly sworn, testified as follows:

Direct Examination

By Mr. Hull:

Q. Were you up to a short time ago employed by the City National Bank in this city? A. Yes.

Q. As bookkeeper? A. Yes, sir.

Q. Were you in the summer of 1914 a bookkeeper for the Arkansas Coal Mining Company?

A. I was, as near as I remember, so employed there for about three months.

Q. As near as you remember, when did you go to work there? A. Somewhere about the first of July.

Q. Do you know Elmer Bohannan, the man sitting over in the corner next to the gate there (indicating)?

A. Yes, I know that to be his name.

Q. What position did he hold in that mine when you were bookkeeper there?

A. When I went to work there he was foreman, I believe they called it, or pit boss.

Q. Do you remember what salary he received?

A. No, sir, I do not remember exactly what the salary was.

Q. He held what position?

A. I think he was called.

Q. Do you know who succeeded him? A. Mr. Thorpe.

Q. About how long, if you remember, was Mr. Bohannan there as mine foreman after you went there?

A. I don't remember exactly.

Q. Can you give any idea? Did you pay him at least once or possibly twice, as shown by the books?

A. Well, I know I paid him once, or rather wrote the check for him.

Mr. Hull: That is all.

Mr. Covington: No questions.

Witness excused.

4615 Mr. Drinker: [I] connection with the testimony of John P. White we have three very short extracts which we want to offer from the United Mine Workers Journal.

In connection with his testimony to the effect that the United Mine Workers is a purely voluntary association and has nothing to do with,—that it is not a business institution in any sense, we offer from the Journal of November 10th, 1910, on page 4, the editorial headed, "As To Strikers", a portion of the third paragraph of that editorial, which is marked.

Mr. Warrum: The defendants separately object to this extract from the Journal offered by plaintiffs' counsel of November 10th, 1910, as not proper rebuttal.

The Court: The court will permit the case to be reopened by plaintiffs, if it is necessary to re-open it, to the end that this may be admitted. I assume that Mr. White's testimony although given by the courtesy of counsel, during the introduction of plaintiffs' testimony, may be properly considered as part of the defense.

Mr. Warrum: We object for the reason that it is hearsay, and for the further reason that the articles of association will determine the character of the organization, with

reference to whether it is a profit or non-profit making association. We do not think that there is any evidence showing that there has been a diversion from the purposes and character of the organization. And we object to it for the further reason that the article is hearsay and has no connection whatever with the issues involved here.

The Court: The objection will be sustained.

4616 To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still excepted.

(The article so offered by the plaintiffs and rejected by the court, is in the words and figures as follows, to-wit):

"Labor organizations are just the business institutions of organized labor. If they are run successfully, and conducted on business methods, the balance is always on the right side of the ledger for the members. If the business is loosely managed, strikes ordered except when necessary, then the balance on the books either becomes slim or it disappears altogether. Working men should not forget that their organization is a business institution from which they expect to get dollar for dollar, with interest, for every dollar they pay into it."

Mr. Drinker: We now offer for the same purpose from the United Mine Workers Journal of July 22nd, 1909, on page 7, from the editorial entitled, "Selfishness of Trades Unionism". The two paragraphs in the third column as indicated.

Mr. Warrum: The defendants separately renew their objection.

The Court: Same ruling.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

(The extract so offered and excluded by the court, is in the words and figures following):

"It is because so many have refused or neglected to become members of our corporation that our profits are not so large as they should be, and it is those on the outside who sell their labor individually that they keep down our, and their profit.

The miners' organization is a purely business propo-
4617 osition, and the profits coming from it will never be so large as they should be until every coal miner has

become a member and is selling his labor collectively and has quit the foolishness of attempting to do impossibilities by holding aloof and selling it individually."

Mr. Drinker: In connection with the powers of the President, and the Executive Board, to discipline local unions, I offer the official notice in the Journal of July 27th, 1911, signed by Mr. White, Mr. Hayes and Mr. Perry.

Mr. Green testified that the President had the power to revoke the charters of local unions, but I don't know that that was official.

The Court: The fact that Mr. Green testified to that would make it proper direct testimony.

Mr. Drinker: They also in the second deposition they took asked Mr. White whether or not,—he was asked a series of categorial questions as to whether or not he had revoked the charters of any of the locals and he testified he had not.

Mr. Warrum: The defendants separately object to the introduction in evidence of this extract from the Journal offered.

The Court: I do not think this is rebuttal.

Mr. Drinker: Then I want to open my case and put it in.

The Court: I know it is not rebuttal, and if you want to put this in as a part of your case, you may do so.

Mr. Drinker: I want to do that.

Mr. Warrum: The defendants separately object to the introduction in evidence of the article now being offered by plaintiffs' counsel from the United Mine Workers Journal of July 27th, 1911, for the reason that it is not compe-
4618 tent evidence, and it is hearsay, it purports to be an expression of an opinion as to the powers,—

The Court (interrupting): No, it is not, have you seen it?

Mr. Warrum: No.

The Court: Perhaps you would not care to make that objection if you had read the article.

Mr. Warrum: And for the further reason that it is not competent as bearing upon any issue or any issuable fact in this case. It does not determine the responsibility of the United Mine Workers of America, the International organization, and we make the further objection,—we object to

their re-opening their case, but I suppose that it is a matter within the discretion of the court.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

(Evidence for Plaintiffs in Chief.)

4619 Mr. Drinker (reading):

"Official Notice.

Indianapolis, Ind., July 25, 1911.

To Whom it May Concern—Greeting:

Pursuant to action of our International Executive Board at a meeting held in this city on June 26 to July 1, the President hereby revokes the charters of the following local unions; 96 West Newton, Pa.; 260, Moon Runn, Pa; 266, Venetia, Pa; 410 Yohoghany, Pa; 524 Carnegie, Pa; 547, Reissing, Pa; 725 Cliff Mines, Pa; 777 S. Brownsville, Pa; 873, Brouhgton, Pa; 970 Avella, Pa; 1015, McDonald, Pa; 1046, Tyre, Pa; 1188 Kaylor, Pa; 1240, Presto, Pa; 1346 Broughton Pa; 1372 Shire Oaks, Pa; 1447, W. Brownsville, Pa; 1712 Rodfield, Pa; 1809 Willock Pa; 1891 Epton, Pa; 1898 Imperial, Pa; 1917 Bridgeville, Pa; 2026; Wesland, Pa; 2048 Carnegie, Pa; 2050 McDonald, Pa; 2107 Avella, Pa; 2146, Loupnex, Pa; 2500 Large, Pa.

The above local unions have failed to comply with the previous instructions of the board, authorizing them to pay tax and assessment to Timothy Donovan, Secretary-Treasurer of District No. 5, Pennsylvania.

All local unions in District No. 5 are hereby cautioned against accepting transfer cards issued by said local unions. For a number of months the local unions in question have been in open rebellion against the authority of the International organization as well as the authority of the regular District organization, hence it becomes imperative, in order to enforce discipline and preserve the integrity of the organization, that such flagrant violations of our laws should not be permitted and the guilty parties allowed to go unpunished.

4620 The so-called District No. 5 organization, of which Robert Gibbons is president, was not chartered by the authority of the International Executive Board and

is not recognized by your organization and consequently has no standing, and any and every act of said organization is illegal, a usurpation of power and a violation of the fundamental principles of our union.

From the inception of the controversy in the Pittsburg District every opportunity has been given the Gibbons faction to present their grievances in the courts of the organization, which they have failed to do, but were disposed to bring about a more chaotic state of affairs by resorting to the civil courts to redress their wrongs, whether real or imaginary.

The joint contract relations between the Operators' Association and our organization are only recognized through the regular District No. 5 organization, of which Francis Feehan is president and Timothy Donovan is secretary-treasurer.

All local unions affiliated with the regular District No. 5 organization and the International union will govern themselves accordingly.

JOHN P. WHITE,
President.

FRANK J. HAYES,
Vice-President.

EDWIN PERRY,
Secretary-Treasurer."

(Seal

4621 Mr. Hull: If the Court please, we offer certain affidavits made as to the minute books.

The Court: Filed in this case?

Mr. Hull: Filed by defendants' counsel. I have not had an opportunity to check them up with what we have and I want them offered merely for the purpose of argument. They were handed to me at 9:30 this morning.

The Court: They will be received.

Mr. Hull: That offer referred to plaintiffs' exhibits 212 to 216 inclusive.

Which exhibits are as follows:

"Ptf. Ex. 212, J. K. P.

(Affidavit of William Mikel as to Records of Local Union No. 1810.)

"In the District Court of the United States, Western District of Arkansas, Fort Smith Division.

Coronado Coal Company, et al, Plaintiffs,
vs.
United Mine Workers of America, et al, Defendants.

State of Arkansas,
Sebastian County—ss.

William Mikel, being duly sworn, says that he is financial secretary of Local Union #1810; that pursuant to the order of the Court made in this case he made search for all books containing the financial accounts of said Local for the years, 1914, 1915 and 1916, and the only books in his custody or in the files of said Local containing the financial accounts of said Local for said years, or the receipts and expenditures thereof, is the Journal of said Local which he has produced and turned over to the attorneys for said defendants; the first entry of which is July 2, 1913, and the last entry
4622 of which is partial receipts for the fourth quarter of 1917.

(signed) WM. MIKEL.

Subscribed and sworn to before me on this the 23rd day of October, 1917.

(Seal) (signed) W. T. CLEMONS,
Notary Public.

My Commission expires Aug. 16, 1921."

(Affidavit of Hugh Miller as to the records of Local Union No. 2110.)

"Ptf. Ex. 213

In the District Court of the United States, Western District of Arkansas, Fort Smith Division.

Coronado Coal Company, et al., Plaintiffs,
vs.
United Mine Workers of America, et al. Defendants.

State of Arkansas,
Sebastian County—ss.

Hugh Miller, being duly sworn, says on oath that he is financial secretary of Local #2110, United Mine Workers of Amer-

ica; that in pursuance to the order of the Court he has made search of the books in his custody and the files of his office, and that he can find no financial accounts or book containing statements or receipts and expenditures of said Local Union, except the one which he has produced to the attorneys for the defendants, the first entry of which is September, 1, 1915; that the books of said Local were burned on December 26, 1915, in the fire which consumed the Lodge Hall of said Local.

(signed) HUGH MILLER.

4623 Subscribed and sworn to before me on this the 23 day of October, 1917.

(Seal) (signed) W. T. CLEMONS,
Notary Public."

My Commission expires Aug. 26, 1921.

(Affidavit of E. W. Abston, as to the records of Local Union No. 2053.)

"Ptf. Ex. 214, J. K. P.

State of Arkansas,
Sebastian County.

E. W. Abston, being duly sworn says on oath, that he is the financial secretary of Local Union No. 2053 United Mine Workers of America; that in response to the order of the court made in the case of Coronado Coal Company, et al. v. United Mine Workers of America, he has made search of his files and the books in his custory; that he has in his custody and has turned over to the attorneys for the defendant the financial reports and accounts of said local for the years 1914, 1915 and 1916; that he has not in his custody and cannot produce the list of members of said local for the years 1914, 1915 and 1916; that the list of members of said local have been kept by the financial secretary thereof in a loose sheet system which would be rearranged from time to time with the changing membership of said local, the sheets set apart to members being destroyed as they would die or remove their membership from said local, and that he only has in his possession now the list of present members of said local.

(signed) E. W. ABSTON,

Subscribed and sworn to before me this the 27th day of October, 1917.

(Seal) (Signed) W. T. CLEMONS,
Notary Public.

My commission expires Aug. 16, 1921.

4624 "Ptf. Ex. 215, J. K. P.

(Affidavit of Hugh Miller as to records of Local Union No. 2110, having been destroyed by fire.)

State of Arkansas,
County of Sebastian,
Greenwood District—ss.

Personally appeared before me A. M. Dobbs a Notary Public in and for the county and state aforesaid, duly commissioned and acting Hugh Miller, well known to me who being duly sworn according to law deposes and says:

I was recording secretary of Local Union 2110 U. M. W. of A. from April 1st, 1914 to April 1st, 1915: during this time the hall in which this local held its meetings and kept its records burned down and the minute book was destroyed in the fire and for a long time afterwards, on account of the mine being closed, there was no meetings held by this Local Union.

Further deponent saith that there is not now and has not been since the fire aforesaid any minute book or any other record or copies of any records of any transactions that took place from April 1st, 1914, until April 1st, 1915; that he as such recording secretary was the authorized person to keep such minute book and knows that the same was destroyed as aforesaid.

Further deponent saith not.

(signed) HUGH MILLER,
Deponent.

Subscribed and sworn to before me this the 16th day of November, 1917.

(Seal) A. M. DOBBS,
Notary Public.

My Commission expires Jan. 4th, 1919."

4625 "Ptf. Ex. 216, J. K. P.

(Affidavit of W. F. Wallace, as to records of Local Union No. 340.)

I, W. F. Wallace, residing in the town of Midland, Sebastian County, Arkansas, hereby make affidavit, on this 16th day of November, 1917, that I was recording secretary of Local #340 during the year of 1914 and the first five or six months of 1915; and further make affidavit that there were no

minutes of any meetings, of said Local #340, during the year 1914, and to the best of my knowledge and belief that no minutes were made nor any meetings held in the year 1915 until after May or June.

(Signed) W. F. WALLACE

Subscribed and sworn to before me this 16th day of November, 1917.

(Seal) (Signed) JERRY BELL,
Notary Public.

My Commission expires Aug. 2, 1920."

Mr. Hull: We also offer Plaintiffs' Exhibit 217, which is the minute book of Local 340, at Midland, handed to me this morning by counsel, for the defendants, beginning with the minutes of November 9, 1915, just sufficient to show that fact.

Mr. Drinker: We would like to offer also the affidavit in connection with the Executive Board Minutes, which counsel handed me some time ago; an affidavit by Mr. Ross, and Mr. Douglass, Secretary-Treasurer of District 21, beginning with October 1st, 1914, but I have never seen the affidavit of Fred Holt, from April 1st, 1914, to October 1st, 1914. I handed them to counsel here, or laid them on the table, or handed them to Mr. Wellshear, and I have not seen them since.

4626 I would also like to offer the affidavit of Mr. Holt, if I can get it.

The Court: Have you gentlemen got them?

Mr. Covington: Mr. Drinker said that he gave them back, or laid them back on the table, or gave them to some one of us. I have not seen them. They might have been picked up with other papers and carried over to the office.

4627 Mr. Drinker: I don't want to get into any dispute with counsel over the affidavits that he did hand me, and I will let it go. I never have seen the affidavit of Mr. Holt, and I never have seen it yet.

Mr. Covington: I told you I would get them if I could.

The Court: What about the Holt affidavit?

Mr. Covington: We have not had it, I told him that I would get it if I could get hold of Holt.

The Court: Have you made an endeavor to get him?

Mr. Covington: Yes, sir, and have been unable to do so. He is out of the Union, and has been for a long time, but the affidavit of Douglass states emphatically that there were no minutes of the Board Meetings turned over to him when he took office.

Mr. Drinker: I don't so remember it.

Mr. Covington: I will make a search for them, and if I can find them will turn them over to you.

The Court: Very well, they can be put in the record if found.

Mr. Covington: Yes, sir.

Mr. Drinker: Then, the Plaintiffs rest.

The Plaintiffs here rested their case.

Mr. McDonough: There is one thought that I had in mind, whether we should introduce the record of this case in the Circuit Court of Appeals.

The Court: Oh, no.

Mr. McDonough: I didn't think it was necessary.

The Court: Anything further for the defendants?

Mr. Warrum: The defendants also rest. I suppose
4628 the evidence is concluded, the taking of testimony.

The Court: Yes, sir.

Mr. Warrum: Now, if the Court please, the defendants desire to renew, and therefore, refile their motion, asking the Court to strike out certain evidence, and we ask permission to refile those motions.

The Court: It is proper to do so; it is not necessary, however, for you to file another motion; I assume, but if you prefer,—

Mr. Warrum (interrupting): No, I think it can be made orally.

The Court: You renew the motion that was made and filed, and which you were given the privilege of doing at this time.

Mr. Warrum: The motion for a directed verdict, I will file this morning, because this is a motion which would properly come in at the conclusion of all the evidence.

Mr. McDonough: The plaintiffs want to file a motion to strike out a question and answer.

The Court: Read it, I can determine it very easily if it is just one question.

Mr. Grant: There is one more motion, in behalf of District 21 United Mine Workers of America, and each local union that has been sued, we desire to file a motion for a directed verdict, and we orally make the same motion for each individual defendant.

The Court: I guess I will not hear your motion now, Mr. McDonough.

I got to thinking before we let this jury go, how long do you desire, gentlemen, to present these motions, what time
4629 do you think it will take? I want you to present them in the proper way. I suggest to you now that the Court recognizes the importance of the motions, and the responsibility that is involved in their determination, and I suggest to you gentlemen, all of you, that the Court does not wish to shirk that responsibility, and therefore I am prepared to give you a respectful hearing, and at length, with the assurance that I will do that which appeals to my judgment as my duty, when we get through. Now, with that suggestion, how long do you feel that you should have to present this matter?

Mr. Warrum: Is the inquiry with reference to whether we shall proceed today, or take it up Monday? Is it a question of taking it up today?

The Court: I am prepared to proceed, I think the Court would like to proceed today.

Mr. Warrum: We are prepared to proceed today.

The Court: And about how much time do you think it will take?

Mr. Warrum: I would not think more than an hour, for my side.

The Court: If it don't take you more than an hour, the other side would surely get through before night. We ought to dispose of it today.

Mr. Warrum: Yes, your Honor.

Mr. Drinker: Yes, your Honor.

The Court: Is it the judgment of counsel of both sides that the jury should be excluded during the argument of this law question?

Mr. Drinker: Yes, sir.

4630 Mr. Warrum: Yes, sir.

The Court: And let the record show consent of counsel by both sides that the jury should be excluded until Monday morning?

Mr. Drinker: Yes, sir.

Mr. Warrum: Yes, sir.

The Court: The Court is of the opinion, in an argument of this kind, it is always best that it be not made in the presence of the jury. The Court sometimes takes the position with counsel, in arguing the case, directly opposed to what he actually believes, but he does it to draw out the viewpoint of counsel. The jury might misunderstand that, and might think that the Court was convinced on a proposition directly opposed to the real judgment of the Court; besides, this is purely a matter of law, to be presented to the Court, and with which the jury have nothing to do. The jury assume the entire responsibility for the determination of the facts, but the Court must assume, alone, the responsibility for the determination of the questions of law that arise from time to time.

It is therefore the opinion of the Court, that it would be best to present these questions of law in the absence of the jury. In view of the fact this is Saturday, and only a short time until the noon hour, and these matters will probably take that long, and perhaps some of the afternoon, it is thought advisable to excuse the jury until Monday morning. This is perhaps the last long recess that you will take during the trial of this case, and now that the testimony has been closed, the Court is especially anxious that you take seriously the
4631 usual admonition, during this long recess, not to talk about this case among yourselves, or allow anyone to talk to you, or in your presence or hearing concerning it, reserving your judgment until the case is finally submitted to you.

I urge you again, not to read any newspaper accounts of the testimony, or any newspaper account with reference to the case; to avoid meetings or visits of persons that might discuss some of the questions that are involved, directly or indirectly, in the case at bar.

Remember, gentlemen, that under your oaths as jurors, you are to take this case and decide it upon the facts as you find them, and governed by the law as the Court shall give it to you; that neither you nor the Court are partisans of either par-

ties to the controversy; that there is no interest in this case either with the Court or with the jury, except that justice shall be done by your verdict, when you have finally reached it.

With this thought in mind, you are excused until 9:30 Monday morning,—can you just as well come by 9:00?

The Jurors: Yes.

The Court: Make it 9:00. The number of hours have not been determined for the argument, but I assume that a half hour might be needed before evening, when I hope to submit it to you. Come at 9:00 o'clock Monday morning.

4632 (Memorandum Opinion of District Court on Defendant's motions for a directed verdict, etc.)

Fort Smith, Arkansas, November 19, 1917.

Monday Morning Session.

The Court: There are no jurors present, are there?

An Attorney: No.

The Court: Now, in the case at bar the plaintiff having closed it testimony, and thereafter the defendants having introduced their testimony and closed; the plaintiff introduced evidence in rebuttal and closed. And thereupon, the defendants, on behalf of the Mine Workers of America, the International Organization thereof, John P. White and John P. White as President of the United Mine Workers of America; Frank J. Hayes and Frank Hayes, Vice-President of the United Mine Workers of America; and William Green and William Green, Secretary-Treasurer of the United Mine Workers of America, at the conclusion of evidence in this case, separately and severally moved the court to instruct the jury to return a verdict for said defendants and each of them.

Gentlemen, your motion is faulty.

Mr. Warrum: The reason for that was the oral argument.

The Court: For the reason that there is not sufficient evidence to sustain a verdict in favor of the plaintiffs and against the defendants and each of them.

Mr. Warum: I will add that to them.

The Court: Not now; you can do it later.

I devoted, perhaps, an unreasonable length of time to this motion, Gentlemen, because the court felt at present that ques-

tion, while not one of first impression, perhaps, and yet I don't know but that it is a question of first impression, when considered in the light of the facts as they are contained in this record, I may say, in the first instance, taking the al-
4633 legations of the complaint and entering into a consideration of the analysis of the entire testimony which has been introduced, together with the reasonable inferences that may be drawn from it, that it would seem to this court that it requires more than the blindness of Justice not to see that these plaintiffs have been injured by a combination of circumstances which may be found by the jury under the evidence of this case, to be directly traceable to the acts of the United Mine Workers of America, located in the Twenty-first District, the same embracing the coal fields in which the plaintiffs' property was situated, and that such evidence is especially strong as to District No. 21 and as to the local unions in the immediate vicinity of the mines of the plaintiffs.

The court is of the opinion that the jury may reasonably find upon the entire record that is presented here, that the efforts of the United Mine Workers of America, to subdue the plaintiffs and others to their demands and prevent the mining of non-union coal and the sale and transportation of coal mined by non-union miners in competition with the union-mined coal and to break up the plaintiffs' commerce, affected the quality of their acts and brought them within the statute of the United States prohibiting such combination and conspiracy on the part of these defendants; but the question here is narrowed to the responsibility of these defendants, who make this motion for a directed verdict, for what was done, if it is found by the jury that it was done by the sanction and procurement of the defendants above named.

There has been evidence produced tending to show concerted action on the part of the union miners of District Twenty-one with the union miners of the entire national organiza-
4634 tion and the heads of that organization, tending to demonstrate in the judgment of the court, the idea and motive entertained by the entire organization and all the members of it, that it was necessary, in order to protect the union workers in the fields already unionized, to unionize the non-union fields, as well as to hold all those which were already unionized.

In the opinion of the court there is evidence tending to show that there runs a thread of universal conviction upon the part of all of the officers of the national organization, extending down to the officers, and even the members of the lower or-

ganizations of the United Mine Workers of America, that the interests of the United Mine Workers (and that they should be in a position to enforce their demands, absolutely), demanded the unionization of all fields and the prevention of non-union mined coal, and the prevention of the competition of non-union mined coal in the markets of the country with union-mined coal.

From a review of the evidence and a study of the consitutions of the international organization and the district and local organizations, I am convinced that the international organization is composed directly of all of the individual members and by its constitution the national organization has divided itself into branches, district and local, all subordinate to the international organization. The constitutions and the construction of the constitutions being placed in the officers of the national organization, the district and local organizations are directly subject to the direction and control of the International Executive Board.

I find that by the constitution (and this record shows the practice) the president of the international organizations, himself, issues charters to local organizations; that he, with
4635 or without the board, has the power to dismiss the individual; is authorized to revoke charters, and that the international board, if not the president himself, has full power to discipline any individual or organization.

I am impelled to the conclusion that this District Twenty-one, or the locals in Arkansas, are not separate entities, independent of the international organization, but that they are merely a part of the great organization, representing the international organization in District Twenty-one, and remain such a part only so long as they continue to carry out the objects and purposes of the international organization, as the officers of the international organization shall interpret that duty, such international organization having the power to construe the constitution, to determine the duty, to discipline the lesser organizations, to issue charters to local unions and cancel or take away such charters.

By the constitutions of the international organization, as well as the district constitutions, their purposes and objects are identical. One object expressed in both constitutions is to unite all wokers by the means of strikes. It would seem, therefore, that when that portion of the great national organization located in District Twenty-one, in pursuance of the purpose for which both it and the international organization

were constituted, entered upon a strike, in carrying out the policy I have above referred to, it is not acting for itself alone in the field in which the strike is ordered, but is acting rather for the entire national organization, under its specifically delegated power and authority, without the necessity for further authorization from the international officers to represent the international organization in the conduct of such local strike within its own district, in an organized field, not involv-
4636 ing a majority of the members of District Twenty-one, no financial aid from the International organization having been requested.

It may be observed here, that while the constitution gives to the district organizations the power and authority to authorize such strike under such conditions, it does not delegate exclusive authority to such district. It may order a local strike, but in view of other provisions in the constitution and in the light of the record of the doings of the Executive Board of the International organization in exercising absolute control over the different districts, I have no doubt that this provision is only permissive and was never intended to take the absolute control from the International Executive Board. Unquestionably the National Board, after the local strike was ordered, had the right to supervise and absolutely control the same, and had the right to discipline to the [extend] of absolutely taking the charter away from the offending members in the event the orders of such National Board were not complied with. In this view the action of the District and Local organizations is the action of the International organization—it is the action of the International Mine Workers of America.

This view is emphasized in Article XII, Section 2, of the constitution of the international organization, which provided, "Before final action is taken by the District upon questions that may require a strike to determine, the President and Secretary of the aggrieved District shall jointly prepare, sign and forward to the National President a statement setting forth the grievance complained of, the action contemplated by the District, together [—] the reasons therefor, and
4637 await the decision of the National President and be governed thereby." I am, therefore, of the opinion that, under the proofs that have been introduced, the jury may find that the allegations of this complaint are sustained and that the acts complained of where done by the International Mine Workers of America, through its accredited representatives, District Twenty-one, the local organization, together with the individual members thereof, all of whom are subject to the international organization.

It is conceded here, as I understand it, that the national organization has supreme authority. Whether conceded or not, it is my judgment that the strength of this organization and its efficiency, may reasonably be attributed to the fact that it has such a strong central government; that the judgment, discretion, wisdom and power of the entire organization is vested in the national organization; that every member is a member of the international organization and is a contributor to its funds. This association gets the benefit of this organization in efficiency, its officers having and exercising supreme power, not only over the international organization, but over the entire membership of the organization.

The supreme power and control of the United Mine Workers of America being in the national organization and exercised by its officers, in my judgment it is idle to talk of there being no responsibility or duty with reference to the manner in which the functions of the international organization shall be performed. It is the policy of the United Mine Workers of America that is being carried out. It is the entire organization that is to receive the benefits of the efforts of a portion of its members in a particular field in the prosecution of a
4638 strike authorized by its constitution, because the theory, justified by this record, is that any mines operated non-union, compete with all union mines within the competitive field in the states where marketed. All the coal from the union mines comes in competition with the non-union coal, and the record shows that a strike in one district is not only aided by the international association, but the international organization sends organizers from one district to another, in which there is a strike and the expense is paid by the former. This is all legitimate and is legal, so long as the strike is conducted with due regard for the law and the rights of person and property of others.

And now we get down to the question involved here: has the international organization no responsibility, if, in the conduct of this strike over which it has supreme charge, these members, who can be disciplined only by that organization, resort to violence and destruction of property?

My judgment is that its responsibility is [commencurate] with its power; that the public interests of the country demand that such an association can be permitted only for lawful purposes; and that all those who constitute the national organization which has supreme power and control must be held responsible for injuries committed to person or property by violence on the part of the strikers, in support of the

purposes of the strike, and of the strike; in other words, that simply because the United Mine Workers of America is a large association, it is not, as such an association, above the law, and, if in the conduct of a strike in a lawful manner, by reason of the power and force of the numbers and temperament of those engaged in the strike that force and power of individuals, which the national organization is responsible for, the control of which is vested in such organization, goes beyond that which is lawful, and in the name of the union and for the purposes of the union, as is alleged, and the records tend to show in the case at bar, wantonly, with force and violence, resort to arson and to the use of dynamite in the destruction of property of another, then the national organization should be held responsible for its failure to perform its duty in that it failed to control the force that it put in motion, that is, failed to hold the members who are under is control and discipline to peaceable action along the lines recognized as within the province of those engaged in the strike.

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I am aware that in this connection it might be suggested how is the national organization to know that there is violence? When is the national organization to be considered responsibible for the use of violence? Violence prohibited, if you please. The court is of the opinion, on the strength of this record, that the question need not be answered here.

Under the record, as the court understands it, it may be found by the jury from undisputed evidence that has been introduced here that in the working out of policies, recognized to be the policies of the entire international organization, this force, in the Prairie Creek District, put in force by the national organization and for which it is responsible, developed into a riot, not only under the sanction of the local and district organizations, but also it may be found it was under the direct sanction and with the knowledge of the district officers and national officers, for the reason, that as the court reads the record there is evidence to sustain, or tending to show that three months prior to the distruction of this property, to be accurate, as the court remembers it, April 6, 1914, perhaps a day or two prior to Apil 6th, communition was shown by telegram between officers of the district and members of the local organization, and that on April 6th this riot or mob-violence was resorted to; that employes of the plaintiff were beaten into insensibility, that it was all done in the name, at least, if not by the United Mine Workers of America, and the victory heralded by a banner

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hoisted upon the tipple announcing that this was a union man's country.

I am inclined to the opinion that the national association must exercise its power and must see that the strikes are conducted along lawful lines, and that, in the event of force and violence and destruction by the miners in the accomplishment of the purposes of the national organization, they may be liable for the injury.

However, in this case, there are facts and circumstances shown as to where the national officers and the officers of the district organization were succeeding April 6th, 1914, for the three months prior to the destruction of the plaintiffs' property. There is evidence here, that in the opinion of the court, would justify the jury in finding that this condition continued to exist, and we may assume, for the purpose of this case, that the national organization may assume that its members will act lawfully. A condition of violence occurred, however, in its behalf on the 6th of April. There is evidence in this record that tends to show that their officers had notice, that they had the opportunity of knowing. The jury are justified in finding, in the opinion of the court, that they did know of the conditions that were created and that existed there at Prairie Creek prior to the destruction of the property of the plaintiff.

Having the opportunity to know, the jury may further
4641 find from the record that they disregarded this opportunity to know the condition and disregarding the condition of violence that existed down there (and if the jury find that they knew that the condition existed prior to July 17th when these plaintiffs' property was destroyed), there was unquestionable duty on their part to interfere and to go to the extent, if it was necessary and they persisted in violence, of severing the connection of the entire membership from the national organization.

Finally, the jury may find from this record that the property of the plaintiffs was burned and their mines destroyed in the course of a strike for the purpose of carrying out the aims and objects and purposes of the international organization that I have heretofore referred to, and the objects of the international organization were thereby attained to the extent of the elimination of the non-union mines of these plaintiffs by their destruction and thereby drove and kept non-union coal, produced and intended to be produced from these mines, out of interstate commerce. Not a word of criticism by the

International Mine Workers of America; no suggestion, in the record, of discipline—on the other hand, strike benefits paid, pensions allowed, court costs assumed, and thereby every act committed by these members of the International organization approved by the entire organizations, national, district and local.

I have made no attempt, Gentlemen, to review particular portions of the evidence, which, in the opinion of the court, sustain the views I have here briefly expressed. Suffice it to say that I have examined the record and that I am fully convinced that there is ample in the record to sustain a verdict for plaintiffs against the defendants in whose behalf this motion is made.

4642 I appreciate the fact that there is a dearth of precedent. Perhaps that is because rarely would such a proceeding be indulged in by miners or by others. Be that as it may, I, without hesitation, assume the responsibility and deny the motion of the defendants for a directed verdict in this case.

Mr. Warrum: If the court please, the motion, that portion to be inserted, as you suggested, it is regarded as in there?

The Court: It will be regarded as in there before it was filed.

Mr. Warrum: Now, Your Honor, the practice here is, I believe, to give the instructions after the argument.

The Court: Oh, yes.

Mr. Warrum: Now, with reference to the argument, now, does the court care to indicate any further than you have what issues will be submitted? With reference to the responsibility of the national, there has been evidence introduced concerning the character, as to whether this movement in the Hartford valley in April, May, June and July, 1914, was the outgrowth of an uprising of the citizens. That will be argued and submitted.

The Court: Absolutely, and the court will instruct fully upon it. There is no question but if that was simply an uprising of the neighborhood, of the people there, and righteous indignation of the treatment received at the hands of the plaintiffs' employes, they are not entitled to recover and de-

fendants are responsible for it. Now, Gentlemen, upon the motion—

Mr. Warrum: And with reference to the conspiracy, this conspiracy between the operators and miners?

The Court: I don't think there is very much to that operator proposition, except that the evidence may throw
4643 light upon the intent and purpose. The conspiracy, of course, is sufficiently alleged here, and if two or more persons conspire, and necessarily it must be, the international organization and its members. Now, there is another motion here filed on behalf of other defendants for a directed verdict, and I think probably it is open to the same object.

Mr. Grant: We would be glad to amend it in the same way that your Honor indicated.

The Court: They both will be amended nunc pro tunc, and the order will be made. Mr. Marshal, call the jury.

(The jury thereupon returned into court.)

The Court: Now, the jury having been called, the formal order will be entered by the Clerk denying the two motions for directed verdicts, discussed by the court in the absence of the jury, for the reasons given.

Mr. Warrum: Exception.

The Court: And to which the defendants separately and severally except, which exceptions are allowed. The motion to strike, I see there is only one here and I thought there were two.

Mr. Warrum: The motion is the motion that was filed by permission of the court to renew.

The Court: Yes, sir, the motion is denied and exception allowed to the defendants; and the other motion to strike is also denied.

I think that clears the way, Gentlemen.

4644 (Court's Instructions to the Jury and Exceptions thereto.)

Fort Smith, Arkansas.

Tuesday, Nov. 20th, 1917, 1:00 o'clock P. M.

The Court: Gentlemen of the jury: You have patiently listened to the introduction of testimony covering a period of a full month, with the greatest patience, and before proceeding to the duty of giving to you, as the court understands it, an explanation of the issues as they are framed and presented here, the issues of fact for your determination, and expressing to you the court's judgment of the law that is applicable, and which you should apply in determining these issues, I desire on the part of the court to congratulate you and to express my appreciation of the manner in which you have thus performed your duties as jurors. I have rarely known a case of anything like this length, where the jurors were all uniformly on time, where they took such good care of their health that each and all of them were present and able to proceed with the work at the stated times, at each session, for so long a period.

Now, gentlemen, we approach the serious portion of your work. In trials of this character, like all civil actions, the province of the jury, the exclusive province of the jury, is to pass upon the facts and determine the issues of fact that are presented by the pleadings. With those facts the court has nothing to do. It is the duty of the jury, as you were notified when you were selected as jurors, and which you said you would do, under your oath as jurors, if selected as such, to try the case, determine the issues upon the evidence as it is produced from the witness stand, and the law as it should be given you by the court.

4645 The first inquiry then naturally is, what are the issues that you are to try? In this case, like all civil cases there are pleadings, the office of which is to determine those issues. The issues in this case may perhaps be, briefly stated, or as briefly at least as the length of the pleadings will permit, and the court therefore states to you, that omitting the title of the case as it is stated in the complaint, or amended complaint, and omitting that portion of the complaint embraced and numbered paragraphs 1 to 5, inclusive, which deals largely with the capacity in which the different plaintiffs and defendants appear here, or are brought here, which has been gone over so fully in your presence by coun-

sel, both to the court and in their presentation of the matter to you.

Coming down then to paragraph 6 of the complaint, and it is not my purpose to read it to you, but simply to try to get enough of it, so that you can have a statement of the issues before you before we proceed further.

It is alleged in substance that the United Mine Workers of America is an incorporated association of mine workers engaged in or about the work of mining and shipping coal in different mines in different states throughout the United States, and that its headquarters are located in the City of Indianapolis, in the State of Indiana, and it is subdivided into about 30 Districts and numerous local unions located in different states of the United States; that said local unions are also a part of the particular district branch having jurisdiction of the territory in which said local union is situated; that every member of any of said local unions and district is a member of the United Mine Workers of America and subject to the rules laid down in its constitution and by-
4646 laws, as well as the constitution and by-laws of the various districts and local unions having jurisdiction over them respectively; that the membership of said United Mine Workers of America exceeds 400,000 miners, most of whom are employed by the various union mines hereinafter described.

7. That each of the district branches and local unions which are a part of the United Mine Workers of America are agencies created by said United Mine Workers of America to carry out the purposes and objects of said National organization, and more particularly to act with and for said National organization in carrying out the general combination and conspiracy in the restraint of interstate trade and commerce as hereinafter more fully set forth.

8. That defendant, District 21 of the United Mine Workers of America, is one of the aforesaid district branches of the said United Mine Workers of America and has jurisdiction over all union mines and miners in the states of Arkansas, Oklahoma and Texas, and that all of the defendant local unions above named are affiliated with and subject to the laws of said District 21.

9. That the local unions named in the captain as defendants herein are unincorporated associations of mine workers in the State of Arkansas, having a separate President and Secretary, upon whom process may be served, and the

said local unions and their members are a part of said United Mine Workers of America and their members are members of said United Mine Workers of America, and the members of each of said local unions are so numerous as to make it impracticable to make all of said members defendants herein, and therefore the plaintiffs pray that said local unions may be brought into court by service upon their respective officers.

10. That John P. White is President of said United
4647 Mine Workers of America, and because of the numerous members of said United Mine Workers of America it is impossible to make each one a party defendant to this cause, but that said United Mine Workers of America is represented by the persons whom you have so often heard referred to. Going on down, it is alleged that James Mullen is the agent of said United Mine Workers of America for the transaction of all business by said organization in the State of Arkansas and resides in the town of Midland; and the plaintiffs allege that said defendants sufficiently represent the United Mine Workers of America for the purpose of this action and that the service of process upon them and the trial of the suit in which they are parties will constitute proper representation of the United Mine Workers of America.

11. That said United Mine Workers of America and the combination of the defendants hereinafter described divides all coal mines in the several states of the United States into two classes, one class being called "unions", or organized mines, because they are operated under an agreement with the United Mine Workers of America, or one of its district branches, to employ none but members of that union in and about the work of producing, loading and shipping coal, and to comply with all of the rules and regulations of the United Mine Workers of America and its district branch having jurisdiction over the respective mines in accordance with their geographical location; the second group of said mines as so designated and classified by the defendants are known as non-union, unorganized or "open shop" mines, because they refuse to make such agreement with the defendants' combination to employ only members of the United Mine Workers of America exclusively.

12. That owing to the restrictions and unreasonable
4648 regulations which the United Mine Workers of America impose on all union or organized mines said mines are conducted wastefully and inefficiently, and the cost of production and the selling prices of union coal is thereby

unreasonably and unnecessarily enhanced and cannot successfully compete with the products of non-union mines throughout the course of interstate trade and commerce, and it is because of this fact and to protect said union mines against said non-union competition in coal of the lower selling price that the United Mine Workers of America and those acting in conjunction with them have divided all mines of the United States into two classes, to be designated respectively as union mines or non-union mines in order that they may more readily and effectively prevent and restrain all interstate trade and competition in the product of non-union mines. This issue you will remember has been discussed, as the evidence was introduced.

Now, the allegation covering the unreasonable restriction that was referred to in the latter paragraph, are, briefly stated, that in every locality in which the United Mine Workers have succeeded in obtaining union recognition and enforcing the closed shop, its so-called contract with the union operators has contained and contains many clauses and provisions unreasonably restricting the employer in the operation of the property. Such contracts are all in the possession of and known by the defendants in this case.

The principal restrictive provision and regulation imposed by the union is the essential one known as the "closed shop" hereinafter and therefore described, and that has been described to you so frequently I won't waste time with it. And
4649 the closed shop system under contract with the union also results in practically precluding the operators from taking advantage of any improved methods of mining intended to reduce cost, such changes in mining methods being created by union officials as a departure from the union contract as not provided for thereby, with the result that no change can be adopted without negotiating a new contract with the union, requiring time, trouble and concessions which in many or most cases offset the economy to be produced by the proposed change of operation.

Other provisions which may be cited merely as examples of restriction imposed by the union throughout the country and which vary in the different districts are:

The provision limiting the number of men to be employed in a working place; provisions prohibiting a given class of employes from doing any work except the specific and restricted employment provided for that class; the provision

requiring the employment of unnecessary men; requiring an ambitious employe from doing more than a given amount or work in a day or in an hour, the purpose and result of which is to reduce the efficiency of all employes to that of the least efficient countenanced by the union, and innumerable other provisions.

The plaintiffs then allege that all said restrictions and unreasonable regulations are similar to those above set forth and have for their object and purpose the complete domination of the labor element in the coal industry of the United States.

Coming down to No. 13, that except for the anthracite coal mines in the State of Pennsylvania, practically the entire business of mining and shipping coal in the United States is done by what is known as the bituminous mines, and located in the states that you have heard discussed here in evidence and named; that each and every one of the
4650 bituminous mines in the several states above mentioned is engaged in or subject and liable to competition in the course of interstate trade from the mines in one or more of the other states above named, and nearly every one of said mines are subject to competition of the mines of each and every one of the several states above named in reaching or attempting to reach different markets of the United States in various industrial centers in different states through the course of interstate trade made possible by transportation of common carriers from one state to another.

14. That the mines for which the plaintiffs are acting as receivers, when in operation, compete directly with the mines of Illinois, Kentuctky, Alabama, New Mexico, Colorado, Kansas, Oklahoma and other mines of Arkansas for the markets of Louisiana, Texas, Oklahoma, Nebraska, Kansas, Missouri, Iowa and Minnesota, and are subject to the competition of said mines in endeavoring to reach the various markets of other states through the channels of interstate trade and commerce.

And let me say to you gentlemen that I am reading all of this rather fully, to the end that you may be impressed with the thought that the pleader was evidently trying to get before you; that is, facts sufficient to constitute his allegation on interference with interstate commerce, with an interference of the production of coal by non-union miners, which coal was being mined, and to be mined, for the purpose of competition with the union mined coal, and to prevent the transporta-

tion of such coal, and to prevent the commerce of such coal, in competition with the union mined coal.

That the mines of Illinois sell coal through the course
4651 of interstate trade and commerce to markets in Louisiana, Texas, Missouri, Nebraska, Kansas and other states, and the operating companies for which plaintiffs, Finley and Hilliard, are acting as receivers, sold coal through the course of interstate trade and commerce to purchasers in said markets and states and thereby entered into competition,—that is the mines in question that are alleged to have been destroyed,—with said mines of Illinois in said states, and others, and are subject to and affected by the interstate competition of said mines and others in many other states; that except for the unlawful interference of the defendants hereinafter set forth, each of said mines would have engaged in interstate competition with the said mines of other states as aforesaid, in the year 1914.

15. That all of said coal mines of these various states, naming them, are union, and part of the bituminous mines of Pennsylvania, Kentucky and West Virginia are union, and that said mines of Colorado, New Mexico, Alabama, Virginia and Tennessee are non-union, or unorganized; that the annual output of bituminous coal in the United States is a little less than 500,000,000 tons, of which the State of Pennsylvania produces over one-third, the States of Ohio, Illinois and Indiana produces over one-fifth, and the State of West Virginia produces about one-seventh, and so on down, alleging the per cent of the coal produced.

Now, coming to 16, by different states or districts: That the United Mine Workers, the defendants, and many other persons to the plaintiffs unknown, now are and for many years past have been engaged in an unlawful combination and conspiracy, as hereinafter more fully set forth, in unlawful restraint of trade and commerce in coal among the dif-
4652 ferent states of the United States, and through means whereof are unlawfully attempting to monopolize, and are monopolizing said trade and commerce; that in furtherance of said unlawful combination and conspiracy the defendants, the United Mine Workers of America, and those confederated together with them in said unlawful scheme, have combined and conspired together to exclude and drive out of interstate trade and commerce, and to restrain and prevent all interstate trade and commerce in, any and all coal produced, loaded and shipped by so-called non-union and unorganized mines, by hampering, preventing and interfering with the production,

loading and shipment of coal for interstate commerce in any of the coal mining states by any so-called unorganized or non-union mines, so that it can not became a subject or commodity of interstate trade and commerce and cannot enter into interstate competition with the product of so-called union or organized mines located in divers states, and to further carry out said conspiracy by hampering and interfering with the production, loading and shipment for interstate trade and commerce by said non-union or unorganized mines in any and all the several states where said mines are or may be located, with the purpose and intent of increasing the cost of production, loading and shipment of said commodities so destined for interstate trade and commerce and the resulting selling price thereof in the markets of the different states reached by said interstate shipments, so that said commodities cannot successfully compete in said markets with the coal produced, loaded and shipped by the so-called union or organized mines working under agreement with said unlawful combination in the several states where located.

17. That one of the objects of said unlawful combination and conspiracy in restraint of interstate trade is to monopolize the trade or occupation of mining coal for the members of the United Mine Workers of America and pre-
4653 vent the employment of non-union men in any part of the United States at the trade or craft of mining coal and prevent the products of the labor of non-union mines from becoming subjects or commodities of interstate trade and commerce in order thereby to more effectually compel them to abandon the trade or vocation of coal mining or become members of the United Mine Workers of America, and thereby to secure complete monoply and unification in control and management so far as labor is concerned of all competing mines in all parts of the United States as has already been achieved by said combination in many states as aforesaid.

18. That the scope and object of said illegal scheme is to suppress and destroy the business of all non-union and unorganized mines where products enter into interstate trade and by various means to prevent any mining company from engaging in the business of selling coal for interstate trade as an unorganized mine and prevent any of the so-called union or organized mines from commencing operation as a non-union or unorganized mine and thus by such suppression, obstruction and destruction of the business of any of the independent and competing mines in the several states which are operating or may hereafter operate on a non-union

or unorganized basis, to completely monopolize interstate trade and commerce for union coal produced under the domination of the United Mine Workers of America, and maintain the price of said union coal in interstate commerce by protecting it from interstate competition of coal which but for said combination would be mined by the more efficient non-union mines.

19. That the object and purpose of said combination in extending its domination and control over separate and competing mines in different states, which in the absence
4654 of said unlawful combination would be engaged in interstate competition with each other, and the sole object and purpose of said combination in destroying or preventing interstate shipments of coal by all mines in any of the coal mining states which do not acquiesce in its control and domination, is to prevent any coal not produced by union mines from becoming a subject of interstate commerce and entering into interstate commerce with the products of so-called union mines and to further carry out agreements and [unterstandings] hereinafter described between the proprietors of the so-called union mines and said unlawful combination to the effect that the defendants and others acting in conjunction with them in said unlawful conspiracy will protect interstate trade and business of said union mines from the competition of unorganized mines by employing all the means available to organize labor to prevent the production, loading and shipment of coal for interstate trade and commerce by unorganized mines.

20. The substance of 20 is that in furtherance of said unlawful combination and conspiracy to unduly restrain interstate trade and commerce and to exclude the products of all unorganized mines and non-union miners from interstate trade and commerce, the United Mine Workers of America, working through their district organizations, and the defendants, have ordered strikes and have conducted strikes in different fields of the soft coal mining industry.

That each and every one of the acts hereinafter set forth, wherein and whereby the production, loading and shipment of coal by plaintiffs or any other unorganized mines was destroyed, interrupted, hampered or interfered with, were done and carried out in furtherance of the aforesaid combination and conspiracy to unduly and directly restrain inter-
4655 state trade and commerce and with the intent, purpose and effect thereof as hereinbefore set forth.

21. That in furtherance of the combination and conspiracy to restrain interstate trade and commerce in bituminous coal and to prevent any non-union coal from entering into interstate trade and commerce, the United Mine Workers of America, and its district branches, have from time to time since 1898, entered into negotiations, understandings and agreements with the operators of union mines in different states, naming them, wherein and whereby it was understood and agreed that in consideration of said operators agreeing to, or continuing to operate union mines, the said United Mine Workers of America, the defendants, and those working in conjunction with them in said unlawful scheme and purpose, would, by strikes and the usual unlawful means which invariably accompany all strikes conducted by the United Mine Workers or any of its branches, prevent the production and shipment of bituminous coal by all so-called non-union and unorganized mines in other states whose products come into interstate competition with the products of said union mines through the course of interstate trade and commerce, and that said agreement and understanding required said United Mine Workers and its said branches to use all means in its power to interfere with and prevent the interstate commerce in bituminous coal by all unorganized mines and by all competitive mines which should thereafter become non-union or unorganized, and that the combination and conspiracy herein described to interfere with and destroy the business of the mines for which plaintiffs, Finley and Hilliard, are acting as receivers, and all act in furtherance thereof hereinafter described were done in pursuance of said illegal arrangement,
4656 contracts, and understandings between the United Mine Workers and said union operators to destroy and prevent interstate trade and commerce in bituminous coal from unorganized fields by destroying or interfering with the facilities of said unorganized mines for the production and shipment thereof.

The plaintiffs specifically allege that the years in which the combination and conspiracies were entered into as above alleged were in the years 1898 and each year thereafter down to and including the year 1916.

Further complaining the plaintiffs state that in the States of Illinois, Ohio and Indiana and other states where the United Mine Workers of America absolutely control the labor situation the said agreements, conspiracies and understandings were had between the said United Mine Workers of America and each and every operator operating in said states with union labor.

Passing over the rest of that paragraph, and the list of operators in the complaint, down to No. 22, it is alleged,—I did not know this was so long, gentlemen, but it seems almost necessary that you should have it fully before you, and it might save you some time when you retire to your room. In 22 it is alleged that in furtherance of said illegal combination and conspiracy to restrain and prevent interstate trade and commerce in bituminous coal, and drive all non-union coal out of interstate trade and commerce, the said United Mine Workers of America and those working in conjunction with them did at various times since 1898 embark and engage upon a general campaign and crusade to prevent all the non-union bituminous mines in the State of Pennsylvania, which were producing about 12 per cent of the entire output of
4657 bituminous coal in the United States, from engaging in interstate trade and commerce in non-union coal by ordering a strike of employes in said mines and through violence, intimidation and threats preventing the employment of any operatives for the production, loading and shipment of coal, and by the use of fire and explosives destroy the facilities of said mines for the production, loading and shipment of said coal.

And that in or about the year 1911 said United Mine Workers and those acting in conjunction with them, did undertake to and did employ said means in furtherance of said unlawful design,—now, going down to No. 23: That early in the year 1914 all said companies for which the plaintiffs, Finley and Hilliard, acting as receivers, decided that said operating companies should be conducted on a non-union or open shop basis without discriminating against any employe on the ground that he was or was not a member of any union, and that about the middle of March, 1914, the Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company closed down their said mines and discontinued operation as union mines preparatory to reopening upon the non-union or open shop basis in the month of April, 1914; that the Hartford Coal Company had not been in operation for over a year previous thereto, but it was the plan and intention of said company to also reopen upon the non-union or open shop basis as soon as it became expedient so to do, or at least in the summer of 1914; that the Coronado Coal Company continued operation as a union company until April 18th, 1914, when its employes were ordered out on a strike by the defendants in furtherance of the unlawful conspiracy herein set forth, because some of the individuals interested in said

mines that were going to be operated as open shop
4658 had also financial interests in said Coronado Coal Company, and might use their profits from said company to carry on interstate commerce in non-union coal from said other mines.

24. That in the year 1914 each of said operating companies for which the plaintiffs, Finley and Hilliard, are acting as receivers, had made preparation to do a large and profitable business with dealers in coal in other states, and so forth.

25. That at all times after April 1st, 1914, the defendants and those acting in conjunction with them in furtherance of the unlawful conspiracy hereinafter set forth well knew of said intentions, plans and costly preparations of said companies, and so forth; and that in April, 1914, and at various times thereafter in furtherance of said plans to have all said companies engage in interstate trade as non-union mines, some of said operating companies for which plaintiffs are acting as receivers, began to operate their said mines on an open shop basis, or as non-union and unorganized mines, and from time to time in the year 1914 employed large numbers of men engaged respectively in the work of mining, loading and shipping coal for interstate trade and commerce, preparatory to employing additional miners and opening additional mines for the purpose of carrying on interstate trade and commerce on a still larger scale, and preparatory to having all of said operating companies do likewise. That none of said miners so employed belonged to or had any connection or association with the United Mine Workers of America, or any of its district branches, or any of the defendants, but that the defendants, the United Mine Workers of America, and those acting in conjunction with them, in furtherance of their
4659 combination and conspiracy,—now, here is where it is brought down, where the conspiracy is attempted by the plaintiffs to be brought down to an interference with the plaintiffs' property,—to drive non-union coal out of interstate trade and commerce and to restrain and prevent interstate trade and commerce therein, and in furtherance of their understanding with the proprietors of union mines competing with said mines, combined and conspired together in furtherance of said conspiracy to ruin and destroy the interstate trade and commerce of said mines and to prevent them from commencing or engaging or continuing therein, by interfering with and preventing the production, loading and shipment of coal for interstate commerce by said mines, and in furtherance of said combination and conspiracy

they agreed upon and did the following acts: By threats, intimidation, violence and unlawful assemblies, they drove and frightened away all of the men employed by said mines at the work of mining, loading and shipping coal for interstate trade and commerce, including those men employed at the work of placing cars of interstate carriers at the proper place on the tracks of said carriers, where they could be loaded with coal for shipment outside of the state, and including those men employed in loading said cars of the common carriers and those who placed the cars after loading upon the proper part of the tracks of the common carriers, where they could be taken up by the interstate trains of said carriers for transportation to points outside of the state (all of this to connect the attempt at interference with interstate commerce) and by threats, violence, murder, mobs and riots prevented the said companies from employing or obtaining for employment any other operatives to load said cars of interstate carriers and to manipulate and place
4660 said cars before and after loading for interstate transportation in their proper place on the tracks of the carriers; and by the same unlawful methods prevented said companies from employing of obtaining for employment any miners whatsoever to perform any of the work of mining, loading and shipping coal for said mines; and by the use of fire, dynamite and other explosives they did destroy the structures and other valuable facilities of said mines for the production, loading and shipment of coal for interstate trade and commerce, and did destroy the cars of interstate carriers, which were stationed at or about the mines waiting to be loaded with interstate shipments, and destroyed cars of said carriers and shipments already loaded on to be hauled away by interstate carriers for transportation to consignees outside of the State of Arkansas, and destroyed the business of other concerns in which the same persons were interested in order to impoverish said persons and prevent their carrying on said non-union coal mining business; that by said unlawful means said defendants and those acting in conjunction with them prevented any of said companies from engaging or continuing to engage in interstate trade and commerce; and the defendants well knew and intended that the destruction of the coal mines of said operating companies located in Sebastian County, Arkansas, and their interference with the operation thereof would result in the destruction of the interstate trade and commerce of said companies, and the defendants destroyed said mines for the express purpose of entirely destroying and ruining

said interstate trade and commerce; that none of the defendants or anyone acting in conjunction with them had any interest or object in destroying said property and interfering with the operation of said mines as aforesaid except insofar as said destruction and interference prevented the sale
4661 and shipment of coal by the said companies in competition with union mines in which said combination was interested, and their primary and direct objection in so doing was to destroy the interstate trade and commerce of said companies because it constitutes 75 per cent of the trade and commerce conducted by them. Passing over the rest of that paragraph, and the names of the defendants, it is alleged that the dates when the principal acts were committed which caused injury to and destruction of the physical property of the companies were April 6th, 1914, July 17th, 1914, July 18th, 1914, July 19th, 1914, and July 20th, 1914.

Then follows the names of the employes of plaintiffs, who it is alleged were working for the plaintiffs prior to the acts, and were driven away thereby, and that the dates on which the overt acts were committed which resulted in the driving away or frightenng away of the above named employes of said companies, and in the deterring of other persons, whose names are unknown to the plaintiffs from entering their employ were principally the following dates during the year 1914, extending over a time from April 5th to July 20th.

Then, by No. 27, the plaintiffs allege in substance that except for the unlawful combination and conspiracy of the defendants and the acts done in furtherance thereof as aforesaid, these various companies would have secured employes to man their mines and engage in the work of producing, loading and shipping coal for interstate trade and commerce, and that they would have realized a large profit from it.

And by 28 it is alleged in substance that by reason of this combination and conspiracy of the defendants, in restraint of interstate trade and commerce, and the acts done in
4662 furtherance thereof to injure and destroy the business of the said companies for which the plaintiffs are acting as receivers, rather, they have [sufference] injury in the sum of $740,689.42. Then follows the itemization of the damages alleged to have been suffered by the different companies, set out separately, with the footings.

Section 29 is in substance an allegation of the unlawful nature of the contract, combination and conspiracy in restraint of trade, and that the loss alleged, the loss that has been set forth, is such that under the statutes of the United States,

then in the case of a verdict for damages, they should have a judgment for three times the amount of the actual damages.

Section 30 is an allegation with reference to money and attachments, which it is unnecessary to read.

The second court of the complaint reiterates and makes parts thereof all that has been alleged in the one I referred to, and alleging in substance that this unlawful conspiracy formed by the defendants, and set forth in the first count, was formed unlawfully and wilfully and with the unlawful and wilful purpose and design of preventing the plaintiffs from operating their mines, and injuring and destroying, as shown above, and that the plaintiffs were injured or damaged by reason thereof in the sum that I have named to you, and that they are entitled to recover that sum as actual damages, and are entitled to recover the further sum of double that amount as punitive damages, too.

I think that by so fully stating the allegations of this complaint that it would be unnecessary to read the answer. Suffice it to say that defendants individually and collect-
4663 ively deny every material allegation of the complaint. There is nothing that is alleged here that is not denied by the answer.

Perhaps, that being true, it is unnecessary to state the defense at this time. If counsel have anything in view that I should state, and will suggest it, I will. The attitude of the defendants toward this testimony, the court will try to set it before you later, and as I understand the defense as made here, and as a matter of record,—

Mr. Warrum: In addition to the question of denial, there is a question of conspiracy between the union miners and operators, and the question that these plaintiff companies were participating in that.

The Court: That is a matter of law, I think, on the face of this record, so that really here is just a denial, and the trouble at Prairie Creek.

Now, gentlemen of the jury, the defendants, by their denial of all of the material allegations of this complaint, place upon the plaintiffs the burden of showing to you, by a fair preponderance of the evidence, as it shall hereafter be defined to you, the truth of each and all of the necessary averments that must be proven in order to entitle them to recover in this case. And the question, I apprehend, that naturally occurs to you is, what the word conspiracy that has been so frequently

used is, and your inquiry naturally arises, what is a conspiracy You are instructed that a conspiracy, as used in the complaint here, is an agreement or understanding between two or more persons to do or accomplish the things alleged in the complaint. It is a confederation, agreement or understanding by and between two or more persons, in this case the persons named in the complaint filed herein. You
4664 are instructed that if you find by a fair preponderance of the evidence that two or more persons named in the complaint herein acted together understandingly for the alleged unlawful purpose set forth in the complaint, then that is a conspiracy.

What I said first was rather a definition, simply an agreement to do the things alleged. The other refers to the manner of proof, how you may find it, and upon that proposition you are further instructed that this is true, although you may not be able to find the express terms of the agreement, or just when or where the agreement was entered into. You are instructed that it is alleged here that the persons named in the complaint confederated understandingly to carry out the terms of the conspiracy therein referred to, and you are instructed that if you find that the defendants, or two or more than two of them worked together understandingly to a common purpose, and that that purpose is the illegal act charged in the complaint herein, and that that illegal act was the object. The formation or existence of a conspiracy may be shown either by direct or positive evidence, such as declarations or writings or circumstantial evidence, such as showing that the parties charged in the complaint acted in concert or in a manner or under circumstances warranting the inference that their acts were the result of previous understanding or agreements between them. In other words, the existence of a conspiracy may be manifested either in words or in deeds, or both. You are therefore instructed that in this case, even though you may not find that there was an open or expressed declaration on the part of two or more of these defendants, to unite in doing the acts charged in the complaint with the purposes therein charged, yet if you find that those acts
4665 were committed as alleged in the complaint with the purpose, and were accomplished in the manner and under the circumstances named in the complaint, and which, by reason of the relation of the defendants at the time, as you find them, and the methods used by them, as you find them, give rise to a reasonable and just inference that they were done as the result of previous agreement or understanding between them, then you are justified in finding that a con-

spiracy existed between them to do the acts charged in the complaint.

You are further instructed, and I repeat, that it is not necessary, in the formation of a conspiracy, that all of the parties thereto shall act together at one and the same time or place, and discuss its purpose or the means of carrying its object into effect, or in any formal way agree upon the methods to be used in accomplishing such design. A conspiracy may be and frequently is formed and carried out without the express declaration of its purpose by any of those concerned, which in itself would necessarily tend to disclose the existence of concerted purpose, and yet when considered in connection with the acts of the parties, or when the acts themselves are considered independent of any such utterances, the existence of the conspiracy may be made clearly to appear, and when made to appear in that manner it satisfies the law. It is sufficient if the circumstances shown by a fair preponderance of the evidence, satisfy you that the parties named in the complaint, or two or more of them, were acting together toward a common end, with the intent and purpose alleged in the complaint herein.

Where an unlawful end is sought to be effected, and two or more persons, actuated by the common purpose of accomplishing that end, purposely work together in further-
4666 ance of the unlawful purpose, every one of such persons becomes a party in the conspiracy, although the part some of them may take therein is a minor or subordinate one, and is to be executed separately, or at a distance from the other participants. You are therefore instructed that where several persons are shown to have combined together for the same illegal purpose, as set forth in the complaint in this action, any act done by any of the parties to the agreement or conspiracy, in pursuance of the preconcerted plan and to effect the purpose of the agreement, combination and conspiracy, becomes the act of each party thereto, and evidence of such act is admitted as evidence against all. Declarations or statements made by parties to a conspiracy, during the existence and in furtherance of the illegal combination, after the unlawful combination has been established to your satisfaction by a preponderance of the evidence, is not only evidence against the one making such declaration, but it is evidence against the other parties thereto, who are as responsible for such declarations or statements as if made by themselves.

You are instructed, however, that before any such statements or declarations shall be considered as evidence against

the defendants other than the one making them, the circumstances must be such as to satisfy you by a fair preponderance of the evidence that the conspiracy had been formed, as alleged in the complaint herein, and then existed to do the illegal acts charged in the complaint, and that the defendant, against whom such declarations are sought to be used, was a party thereto. And I repeat, that you may not be mistaken upon this proposition, that you must first be satisfied of the formation of the conspiracy, by a fair preponderance
4667 of the evidence, and second, satisfied by a fair preponderance of the evidence as to who the conspirators were, and then, considering the statements of the one conspirator, you can consider them as the statements of himself and such others as you find were, at the time of the statement, joint or co-conspirators with the speaker, provided that such statement or declaration is made during the existence and in furtherance of the unlawful purpose included in the conspiracy and set forth in the complaint herein.

I have emphasized this especially, to the end that you may distinguish between statements that are made before the completion of the alleged conspiracy, by one who was alleged to be a party to the conspiracy, or even found by you to be a party to the conspiracy, and statements made after the completion of the purpose in the allegation, the alleged purpose in this case, being the destruction of the property, and you are instructed that in that connection, in keeping with the application of the rule of law that I have attempted to give you, that statements made after the 17th of July, after he destruction of this property, the value of which it is sought to recover in this action, the purpose having been accomplished, as far as the plaintiffs are concerned, the declaration of one, although you find him to be a co-conspirator, shall be found against him, and not his co-conspirators.

Was there a conspiracy, such as alleged in the complaint, and to which I have called [you] attention in my reference to the different paragraphs of the complaint, and second, who of the defendants were parties to such conspiracy, and having determined the first issue, as to a conspiracy against the plaintiffs, and in favor of any defendant, that would end your duty in this case, as to such defendant, because the
4668 court is of the opinion that the entire right of recovery of the plaintiffs is based upon the allegation of the agreement, confederation and conspiracy of the defendants to do the unlawful things set forth in the complaint, and therefore, if the plaintiff has not shown you, by a fair preponderance of the evidence, that there was such a conspiracy, then

the right of action fails. There is nothing upon which to base a recovery claimed in his complaint, and your verdict would necessarily be for the defendants.

Having found, however, that a conspiracy did exist to do the things set forth in the complaint, by two or more of these defendants, your next inquiry is as to who were parties to this conspiracy, and after you have ascertained that, then the rule of law that I have attempted to give you, applies to the determination of the issues, or what I will give you, applies to the issues.

I repeat to you that the gist of this complaint is that a conspiracy was formed, and every party who was not a party to the conspiracy prior to the happening of the alleged injury cannot be charged here as a conspirator, and therefore a finding releasing him from the conspiracy would entitle such defendants to a verdict in his favor and a judgment of dismissal.

It is the duty of the jury to consider the defendants separately upon this proposition of the formation of the conspiracy, and who were parties to the conspiracy.

If you should determine that there was a conspiracy and after you have determined who were parties to the conspiracy, then the next question for you to determine is what was done in pursuance thereof. You come then to a consideration of the issues as made by that portion of the complaint which sets forth the acts complained of in and about Prairie
4669 Creek. Upon that issue the plaintiffs allege that they shut down the mines, or property of the respective plaintiffs, with the purpose of opening them non-union; that the defendants for the purpose of preventing the production of non-union coal and for the purpose of preventing the mining of coal by non-union men, and for the purpose of interfering with interstate commerce in this coal that was produced from the mines of these plaintiffs, did the things, conspired to prevent the same by force and intimidation, and assaulted the employes of the plaintiffs, and burned its property and dynamited these mines, by all of which the plaintiffs allege daamges named in the complaint.

You are instructed that the plaintiffs contend, and have introduced evidence that, in the judgment of the court, tends to support the claim that the United Mine Workers of America are one organization, that every United mine worker is a member of the National organization; that the National organization consists of all of the union mine workers of Amer-

ica; that the locals are only instrumentalities of the main organization, having no power except such as is given it by the head organization; that the district is a creature of the main organization, of the International, or National organization, as we may call it; that both the districts and the locals are entirely within the control of the officers, and especially the President and Board of Control of the National association.

That the National Board and its President granted the charter for the district, that they have the right to cancel the charter, and take it away; that they grant the charter, for the local, that they are clothed with the entire power of discipline of the individual, and that the controlling power is vested entirely in the National association; that the power of dis-
4670 missal of an individual is in the National association; that no power is given by the constitution of the local or the district that is not superseded by a reservation of the power of the central organization. They then follow that with evidence, which was for the purpose, at least, of showing to your satisfaction that there has for years been concerted action on the part of the National organization, its officers and members, down through the districts and the locals and the membership, permitting the idea and motive that it was necessary, in order to protect the union workers in fields already unionized, to unionize the non-union fields, as well as hold those that were already unionized, and the plaintiffs insist that their evidence tends to show that this was the universal conviction indulged in by all of these miners in this union, and enforced by the National organization down through the districts and locals to the individual miner himself, upon the part of the National organization, in whom the power was vested.

That the policy developed, joined in by the officers of the National association representing the entire association, including the districts and locals and individual memberships, of an extent and purpose to prevent the mining of non-union coal by non-union men, and to prevent the interstate commerce of coal mined by non-union men, and to prevent its shipment, and to prevent its traffic, and they insist further, that the strike is one of the legitimate purposes, one of the main purposes for which this organization was constituted. A strike is one of the purposes named in the constitution of the National organization; that the right to strike and to conduct strikes is a provision of the district and local constitutions. That, however, the right to strike, reserved only in cases such as
4671 this here, involving less than a majority of miners of a particular district, may be called by a local board, yet

the plaintiffs insist that they have shown by the records here that the supreme control, regardless of that right, is in the National body; that that is the only permission, and that the National body can at any time stop a strike; that they have the only controlling power, because they have all of the power of discipline; that they have the power, the National organization, or the Board, or the President; the President perhaps, and certainly the Board, and President, they contend, have the right to take away the charter of the offending district, the entire district, and sever it from the organization, and take away the charter of the offending local, and dismiss the offending individual member, and therefore the plaintiffs contend that the entire control is in the National Board, and that whatever is done is done under their control. They contend further that they have introduced evidence tending to show that what may be done in the way of conducting a strike is something that is done along lines that are authorized by their constitution, and that the strike in this particular instance, where it comes down to affecting the particular property of this plaintiff, was a strike called and put into force and operation and conducted for the purpose which they said, and to which I have referred, existing down through the years, and was participated in by all of this organization, with the intent and purpose to prevent this non-union mining of local, the transportation of non-union mined coal, the sale and interstate commerce of non-union mined coal, and that they have introduced evidence that they say tends to show that this was not only this strike here in Prairie Creek, for instance, like other local strikes in other local fields,
4672 was not for the benefit of the local field alone, because they allege that this coal mined in this field here went into competition in large territories, and you will find by reference to the complaint the territory that they refer to, and therefore went into competition with union mined coal, and thereby the strike was not for the benefit, as they claim, of a local mine, but was to prevent, or was part of the scheme to prevent, the mining of non-union coal, to prevent interstate commerce in non-union coal, and to put [in] on the market of the different states, to put it in competition with coal mined by miners in other states and in other districts.

That the entire purpose of the National organization in the protection of its membership was served in this and other strikes of this kind in that it prevented miners in all parts of the United States mining coal, that came in competition legitimately with the coal mined non-union, and protected them,

and protetced their interests, and that their interests were pecuniary.

Now they have introduced evidence further that they say tends to show, and it is for you to say whether or not it does show, by a fair preponderance of the evidence, that a strike was called, and in that connection I may say to you that the plaintiffs urge that this evidence shows, that when that strike was called by the locals there, or by the District 21, that such act was the act of the National organization; that this District 21, and the locals, were merely instrumentalities carrying forward the aim and the object and the purpose, as they say, and as I have outlined it, existed, and had long existed, to prevent the mining of non-union coal, and the shipment into interstate commerce of non-union coal, and there-
4673 fore they say that the acts of these men, when they declared the strike, was the act of the International organization; that it was serving the purpose of the organization in the manner provided and outlined by the organization, and that there is evidence here that they could not have acted independent of the National organization, because the National organization,—for the reason that they claim that they have shown,—that the National organization was supreme in any and all of these matters.

Now, that being true, they have introduced testimony that tends, as they say, to show that this organization, that this strike, was carried on in an unlawful way, and the court desires to say to you here that there is nothing wrong in a strike; that there is no element of crime in peaceable strike. A man has a right to refuse to work for you at any time, and under any circumstances, unless he has a contract with you, then it would be a violation of a civil right, and not a criminal one. The right of the union miners to strike cannot be questioned. The only question is this, gentlemen, and the plaintiffs introduced evidence tending to show that this strike was called, finding no fault with the miners, as long as no violence was used. They say, however, that the acts of those strikers are the acts of the National association, and that the strike itself was called for the purpose of preventing this mining of coal by non-union men, and that it was called for the purpose of preventing the shipment in interstate commerce of that coal, and for the purpose of preventing the sale of the coal in interstate commerce in competition with union mined coal. Now, if they have shown you, by a fair preponderance of the evidence, that
4674 that was the purpose and that was the intent and that intent permeated the entire organization, then they be-

come liable for damages, only because of a peculiar statute,—or a special statute; a comparatively recent statute, in which the United States Congress has declared that if men unite in an unlawful purpose and interfere with interstate commerce, then that persons who have been injured may recover damages in the ratio that I referred to when I read the complaint.

Now, the plaintiffs say that the defendants then by virtue of this unlawful agreement to interfere with interstate commerce, were responsible in a manner, and that they were all responsible, for the reasons that I have suggested to you, and that they called this strike and that the strike was for this unlawful purpose, and that this strike, being put into force and operation by the defendants, gathered so much more force, and became so much of a menace, that it was the duty of those responsible for putting it into effect to have controlled it; that despite the power of the National organization to have controlled it, after they claim notice was given of the condition that existed there in Prairie Creek, of violence, they allege, and have introduced evidence that they say tends to show, that nothing was done by those in authority, and as a matter of law you are informed that the court is of the opinion that if you believe that this National organization had the authority, that they had the supreme power, that they had the power of discipline, that this strike was called pursuant to the policy and the purpose of the National organization, that it was for the unlawful purpose claimed by the plaintiffs herein, then the court is of the opinion that they were bound to exercise that power, and that they were bound to see that the strike was conducted, without injuring any others, be-
4675 cause if the strike was conducted for the unlawful purpose prohibited by the statute, to which I have referred, then any injury that resulted from the conduct of that strike, for that unlawful purpose, comes within this statute, and gives plaintiff the right to recover because of the statute.

Now, that brings us down then to the force that was finally used, as is claimed by the plaintiffs. The plaintiffs say that on the 17th day of July these strikers, together with a force that they had incited, and that they were the leaders of, consisted of store keepers and others. They have introduced some evidence, such as that keepers of stores were notified to close their stores while they went over there to this mine, and the purpose with which they went there you must judge from the evidence that has been introduced. The statements of those who you can find were there and participated.

Now, of course coming down to this day of the use of force, you are instructed that you must find by a fair preponderance

of the evidence, that this was the organization of miners; that this force was put in operation by them. Not necessarily that they were all miners, but that they were the leading spirits, and you must not only find that, but you must find by a fair preponderance of the evidence that the purpose and object of that visit to those mines was to use force, intimidation, and frighten away the employes of these plaintiffs, to drive them off of the mines, to thus stop the production of non-union mined coal; to thus stop the transportation and interstate commerce of non-union mined coal, and to stop the sale and interstate traffic and competition with union mined coal, of the products of the mines of the plaintiffs.

I say, unless they went there for that purpose, then the allegation of the complaint has not been sustained, and
4676 this plaintiff in this action would not be entitled to recover, because this plaintiff is here in this court by virtue of this statute, and this right of action is given because of the finding, and the jury must find, before recovery can be predicated, that the intent and purpose was to do the thing that is prohibited by the statute that I have so often repeated.

Of course, if you find by a fair preponderance of the evidence that these miners put this force in motion, that they incited this crowd that went to this mine on the 17th day of July, and that they went there for the purpose of carrying out the unlawful purpose of stopping the mining of this non-union coal, and the shipment and transportation and the traffic, as I have repeatedly described it, even though you find that they did not intend to go to the extent that as the leaders, the miners, the officers of the organization, if you find they were implicated, even if you find that they did not intend to go to the extent of burning the property or dynamiting the mine, you are instructed, gentlemen, that if you have found by a fair preponponderance of the evidence that the persons that I have named, the defendants, were responsible for the organization that went there to that mine, and that they went there for the unlawful purpose that is prohibited by this statute, and which I have so often repeated, and that they went there intending to interfere with the employes of these plaintiffs, and to drive them from the mine, to stop the mining of this coal, they are responsible, if having put that force in motion, it goes further than they intended. And therefore the entire injury that was done there would be chargeable to the defendants, and your duty would be to find the amount of damage sustained, as I shall hereafter define it to you.

4677 But, gentlemen, on the other hand, the defendants deny all of the things that the plaintiffs, by their case, have attempted to prove. The defendants bring upon the witness stand witnesses that visited the various associations, and the annual conventions. Operators, who were present, and knew or ought to have known, or were in a position to know, what the contracts were, and you will remember their testimony. They bring upon the stand the officers of the association who testified as to what the authority of the organization was under the constitution as they construe it, what their obligation was, what their power was, and I might say in passing, that you will find upon an examination of the constitution, that the constitution is to be interpreted by the National organization; that they have such power as they interpret from the provisions of the constitution.

Gentlemen, down through the proof, as it proceeds, they come to Prairie Creek. In the first place, they have introduced evidence tending to show to you that the strike was not actually called, that it was a lockout by the plaintiffs; that they closed down their mines, and I think this is admitted by the plaintiffs, that they closed down their mines, the plaintiffs said they did, for the purpose of opening open shop. The plaintiffs say that the union miners were welcomed, and they desired them to come back and work, but work under the non-union conditions, for the purposes that they allege. The union miners, however, quit and called it a lockout, instead of a strike. I think, gentlemen, perhaps, you will have no trouble in coming to a conclusion of just what that condition was down there. Insofar as the court sees it, and the court advises you, that insofar as the conduct of the miners was concerned, that the mere fact, whether it was a lockout or whether
4678 it was a strike, in itself, the mere fact that they did either, is not unlawful. It only becomes unlawful because of the purpose that they have, and the intent with which it is done, as I have heretofore defined it.

Now the defendants, under their denial, present a situation for your consideration that it is inconsistent with the position of the plaintiffs. The testimony that is inconsistent with the testimony of the plaintiff, to the effect that the miners were responsible for this riot, and the destruction of the plaintiffs' property. They say, they present testimony that would tend to prove that there was a condition existed there, after the plaintiffs closed their mines in the spring of 1914, and went upon the open shop basis, that was intolerable; that the plaintiffs imported gunmen, as they are referred to, and imported guards, and these men were armed with guns; that they as-

saulted or insulted women, and insulted children, upon the streets, and that they carried their guns wherever they went in an offensive manner, and that they shot, and the shooting was not confined to the property of the plaintiffs, but to the community generally, such as to be a menace and nuisance in general. That they shot up that part of the community known as Frogtown, in the night, and that people became hysterical, left their homes, and went to other places for safety, assuming that they were in danger, whether they were or not. And that this proceeded for weeks and months, and that finally, in righteous indignation, the entire community rose up and that that was the force and that was the power that gathered near this mine at the various times named here, and that it was the exercise of that force and that power, and for the reasons that I have given you, that caused the destruction of this mine.

4679 Now, gentlemen, it is unnecesary for me to repeat to you that the plaintiffs must show you by a fair preponderance of the evidence that the theory of the plaintiffs is correct, and that what the defendants say is not correct. Because, while the court instructed you that even admitting that the plaintiffs did all that it is claimed they did, admitting that these men committed the atrocities that they say they committed, still it would be no justification for these miners or anybody else to go there and take the law into their own hands, and they would be punishable for doing it. But, that is not the question here. If they did it, they may be liable, but that don't make this union, with other defendants, liable for the damage. These defendants must be held liable, and these plaintiffs can recover only if the damage resulting to plaintiffs resulted in the manner that I first outlined to you, and therefore, if it was the unlawful act and the unjustified act that you may find, if you please, of the entire countryside, then admitting there may have been individual miners in the body that destroyed the mine, still that would not make it an act of the National organization. If it was not caused by, or controlled by the union itself, or supported at least by the union itself, then you could not say it was the union, even if it contained union men.

You will therefore see, gentlemen, that the issue is not so very broad. The organization of the Natinonal association, the organization of the district association, the locals and individual members, the character of that association, the purpose and intent that the plaintiffs claim has run down through this organization, at least since 1898, of preventing the mining of

4680 non-union coal, the shipment in interstate commerce of non-union coal, and the sale and interstate commerce and competition in interstate commerce with their

union mined coal, the strike, if the strike was called, the action of the miners there, what they did, may be alleged on the part of the plaintiffs, being the act of the International association, and all of the defendants responsible for it, the gathering of the force, and the going to the mine, and the destruction of the property, if it was caused and gathered and impelled by members of this organization pursuant to the policy of the National organization, then it was the act of the National organization, and in putting that force into motion the entire defendants were responsible for the control of that force, to the end that they are responsible in damages for any damage that was suffered by reason of their failure to control it. On the other hand, if these plaintiffs so managed their property there with gunmen, as to become a menace in that country, as to make these people fear them, if as a matter of fact they did commit the assaults and the insults and did the shooting and things that defendants allege that they did, and if by virtue thereof the entire countryside, in indignation, arose and unlawfully took the law into their own hands, and went to that property without any intent with reference to the mining of coal, without any intent with reference to non-union miners, and without any intent as to the shipment of non-union mined coal in interstate commerce, and with no thought of preventing the sale of non-union mined coal in interstate commerce in competition with union mined coal, but if you find they went there with the sole purpose of ridding the community of what they considered a menace, not because it was mining non-union coal, but because of the injustice that they felt had been heaped upon the community,
4681 then clearly these defendants cannot be held responsible for it, and I repeat to you, that even though the plaintiffs, in the conduct of that mine, and I may say to you now perhaps, in passing, that the court is of the opinion that the plaintiffs have, as have you in your own home, upon your own property, the right to take firearms for your protection, if you feel that you are in danger, if you are threatened from without, as plaintiffs claim they were,—plaintiffs claim that this conspiracy had existed for a long time and that they must have known of this conspiracy and expected trouble, and therefore they were justified, as a matter of law at least, in taking guns there, if taken for their own protection. But whether they used those guns right, whether or not their conduct in that community was that of a Sunday School teacher or ruffian, is a matter that must be determined by their actions there, and it is a matter that they were held responsible in law for. The poorest man in the country has as much right in the courts of the country as the wealthiest, and if they of-

fered injury or insult to any member of that community, there is a law in the State of Arkansas that might have been invoked, and there are officers who would cheerfully have performed their duties. But admitting it, if you please, that the agents of the plaintiffs did not do all of the things claimed that they did, if the countryside believed that they did, then of course they would be acting honestly upon their belief, and that would affect the purpose with which they went there, but on the other hand, gentlemen, there has been testimony introduced here tending to show that all of this condition was created as a part of the strike, deliberately. The suggestion has been made that Frogtown was not shot up by these men's employes, and I think there is testimony here of one witness, at least, by parties that he alleges that he and others shot the town up, and that the purpose for which they did it, and
4682 therefore if it goes back to that, and you find that the union miners were responsible for the condition, then they incited it, did they not? They would be the prime moving cause, if you find they did this, and it was all done pursuant to that, and if you find that the union miners in those strikes, for the purpose of stopping the mining of non-union mined coal, and the sale and transportation of non-union mined coal in interstate commerce, in the conduct of that strike down there, secretly incited to riot, by firing, under circumstances that would lead those people to believe that they were being shot up by the men in the mine that the union miners desired to suppress, then they are responsible for it, are they not? Because they are the ones that incited it, and are responsible for the frame of mind that urged them to go with them and destroy the property.

I may repeat to you, gentlemen, that the defendants rely upon the question of fact, first, that there was no conspiracy, and second, that they were not parties to the conspiracy, and third, that they were not responsible for the destruction of the mine and the condition that caused its destruction, and fourth, that the mine was not destroyed with the unlawful purpose, or with the unlawful intent, authorizing the bringing of this action for recovery of damages, but was for the sole purpose of removing the evil condition that existed there.

I therefore repeat to you that if you find that there was no conspiracy, and if you find that any defendant was not a conspirator, then that ends this case as to him, and he is entitled to a verdict against the plaintiffs in his favor and dismissal of the action as to him. What I said, using the pronoun "him", applies to the different unions that are involved.

4683 Now, the defendants, in their denial, insist that there was no conspiracy on the part of these defendants; that there was no intent or purpose to interfere with the mining of non-union coal by non-union men to be transported in interstate commerce, that there was no intent or purpose to interfere with the shipment of coal by interstate commerce which had been mined by non-union miners. They have introduced testimony for the purpose of showing that these plaintiffs, in the management of this property, brought these gunmen in there which I have already referred to.

Gentlemen, I don't know that there is anything that I can add to what I have already said as to the theory of the plaintiffs and the theory of the defendants, and the purpose for which the testimony has been introduced, that would be of any special aid to you. You are instructed, gentlemen of the jury, that in reference to the preponderance of the evidence, you know the court has repeatedly advised you that the material issues of the complaint must be shown to your satisfaction by a fair preponderance of the evidence. What is meant by a fair preponderance of the evidence? It is not very satisfactory to say to a jury,—but first, I should say to you that preponderance means weight; greater weight. It is not very satisfactory, however, for the court to say to the jury that you should weigh the evidence of one witness against the evidence of another witness. The court is of the opinion that the sure test as to where the weight of testimony is, is as follows: It is just where you, gentlemen of the jury, believe the truth lies after a careful, conscientious consideration of all of the evidence upon any particular proposition. You are instructed that the weight of testimony does not necessarily depend entirely upon the [grater] number of witnesses sworn on either side of a question in dispute, and you are at liberty, as
4684 jurors, to consider all the facts and circumstances appearing from the evidence in the case, and determine from that which is entitled to the greater credit, and if you believe that the testimony of the smaller number of witnesses on one side is more creditable and trustworthy than the evidence of the greater number on the other side, then the evidence predominates on the side of the smaller number of witnesses.

In this case, gentlemen, the intent and purpose is an important factor, and that is one thing perhaps I should have called to your attention before I left the happenings down there at Prairie Creek. The damage sustained by these plaintiffs, because of the intent and purpose with which that de-

struction was caused, is an important, material element here, possibly, if you can get at the purpose, it clears away the mist and fog of contradictory statements.

Upon the question of intent and purpose you are instructed that the law presumes that every person intends the natural consequences of his acts knowingly committed, and in a case like this that presumption is not conclusive, but is probatory in character. It is for the consideration of the jury in connection with all the other evidence in the case. Consider all of the circumstances as you find them, including the manner in which you find that this crowd of people was congregated together, the purpose for which you find they were congregated, the influence that was back of their congregating, the purpose to be served by the execution of their purpose there at those mines.

There are certain allegations in what is known as the amended complaint which the court has treated as supplemental, because it alleges facts occurring after the filing of the complaint and not at the time the original complaint
4685 was filed, in which further interference and intimidation is alleged. I have permitted testimony in reference to such alleged intimidations and interference with these properties after the receivers were appointed, for the purpose of furnishing the jury such reasonable inference as they may draw as to the intent and purpose with which the assault was made, but that is valuable only if you find that the interference was by reason of the same force, that same force that put in motion the force that finally resulted in burning and dynamiting the plaintiffs' property, is the force that put in operation that which interferes with the property subsequently, and you must further find that the persons impelling and controlling the first force that was used there are identical with those that controlled the interference after the date of the destruction. Because if it was a different force, different people, acting under different impulses, it could not possibly effect the purposes with which the first destruction occurred, or the purposes with which the first visit was made.

You are instructed further, upon the question of intent, that in cases like these set forth in the complaint, the jury may find the facts and circumstances, either in the light of the conditions and circumstances as you find them to be about these mines, the incidents leading up to the destruction of this property; the manner in which it was done; the force which was behind the movement and was responsible for the interference, and gather therefrom their interest in the prevention of the production of this coal, its shipment in interstate commerce,

and from all of such testimony, including such interest, you may infer the intent from the character and the nature in-
tended at the time of the commission of the acts com-
4686 plained of, and necessary consequences or their acts.

In this case, gentlemen, there were certain witnesses introduced in the way of what is known as impeachment, that is, certain witnesses were brought upon the stand on behalf of the plaintiffs and the defendants, by way of impeachment, and for that purpose, introduced, as I recall it, certain witnesses living in the neighborhood of the witness Goatcher. Goatcher, as the court remembers his name, who, as they had a perfect right to do, testified that they knew him in the community in which he lived, and had known him for some time personally, that they were well acquainted in the community in which he resided, that knew his reputation in that community for truth and veracity, and that that reputation was bad. Then the witness that is thus impeached, or the plaintiff in his behalf, had the right that other witnesses should be sworn in the case that they also lived in the community of the residence of this same witness Goatcher; that they knew his reputation in the community in which he resided for truth and veracity, and his general reputation, and that they knew that reputation to be good. That is the status in this particular case with reference to this witness Goatcher, as I remember his name. Now, gentlemen of the jury, it is a question for you to determine, whether this witness has been impeached or not. If you believe from the evidence that his reputation for truth and veracity has been successfully impeached by this method, then you have a right to disregard wholly any testimony of such witness, except where the evidence of such witness is corroborated by other creditable evidence or by other facts and circumstances, as you find them, proven at the trial.

I desire to say, just for fear that in the court's general instructions I may have overlooked some of the requests of the
different parties, I will call your attention to them, and
4687 will give certain of the requests as follows:

(The court here read the instructions which were given by the court at the request of the plaintiffs; also the instructions which were given by the court at the request of the defendants.)

And now, gentlemen of the jury, you are instructed that you are the sole and exclusive judges of the credibility of the witnesses. It is for you, under your oaths, to determine just what weight shall be given to the testimony of each and every wit-

ness that has gone upon the witness stand, and in determining that weight, you may take into consideration the interests, if any, of the witness in the result of the action, the bias or prejudice, if any, of the witness either for or against any of the parties to the action. The reasonableness or unreasonableness of the story that the witness tells; the opportunity or lack of opportunity of the witness to know of the things concerning which he testifies; and then in the light of those rules, say where the truth lies. And in that connection, the court says to you that in this case, as in many others, you may find witnesses have gone upon the witness stand and made conflicting statements upon the issues. You are instructed that it is the duty of the jury to reconcile such conflicting statements upon different facts, upon different issues, reconcile such statements to conform to some theory, reconcile that with the theory that all witnesses will tell the truth, because the law asssumes that when a witness is sworn and enters the witness stand in a court of justice that he will speak truthfully instead of falsely, but after a full and fair consideration of such evidence, in the light of the testimony of other creditable witnesses, and in the light of other facts and circumstances as you find them in the case, you are then unable to so reconcile the conflicting statements,
it is your privilege, and it is the duty of the jury to say
4688 who has told the truth, who has spoken falsely, or who has been mistaken. And in that connection you are further advised that if you should find that any witness has gone upon the witness stand and wilfully and knowingly testified to that which he knows to be false, upon a material issue in this case, then you may entirely disregard all of the statements of such witness, except so far as you find him corroborated by other creditable witnesses, or by other facts or circumstances as you find them in the testimony in the case.

Upon the question of damage, gentlemen, the law is comparatively brief and simple. You are instructed that if you should reach a conclusion that these plaintiffs, under all of the facts and circumstances as you find them, are entitled to a verdict at your hands, then your judgment should be for such a sum as will reasonably recompense them for the injury that they have suffered. That is, your verdict should be for the sum of the damage they have suffered, and the measure of that damage is the difference between the fair, reasonable value of the property that was injured before the fire and before the dynamiting, and the fair, reasonable value of the property after the fire and after it had been dynamited. You gather that difference in value from the testimony of the different witnesses, being not bound by the judgment of one man or of any others, but in

the exercise of your own good judgment, as sound business men, taking all of the facts and circumstances with reference to such damages, as it has been testified to upon the witness stand, and when you have agreed upon your verdict, if for the defendants, you will simply sign the verdict that the jury find the issues in this case in favor of the defendants, and against the plaintiffs; find all of the issues in this case in favor of the defendants and against the plaintiffs, and signed by
4689 your foreman.

If for the plaintiffs, you would sign the verdict that the jury find all of the issues in this case against the defendants, and in favor of the plaintiffs, and assess the actual damages of the plaintiffs at the sum of,—there you would write in the number of dollars. The verdict will be blank. You would insert the number of dollars, and the foreman would sign that. Another form will be given you, because the court has instructed you that you must consider at least in determining who were parties to the conspiracy, and therefore determining who the defendants are that are liable, if any of them are, and who are not liable, if any of them are not, therefore a verdict will be furnished you with a space that the jury finds for the defendants, or find against the plaintiffs and in favor of the defendants, with a space in which the defendants' names can be written, and that will be signed by the foreman, and that would entitle such defendants whose names were returned in there by you to a dismissal of the action, and just below that, "We find the issues in this action against the defendants," naming them, "and in favor of the plaintiffs, and assess plaintiffs' damages at the sum of.....dollars."

So there will be three forms of verdict submitted to you. In the one you have to write nothing except the name of a foreman on a verdict for the defendants. In the other, the general verdict for the plaintiffs, in which you would simply insert the amount, if your verdict is in favor of all of the plaintiffs and against all of the defendants, and in the third it will be necessary to insert the names of the defendants in whose favor you determine the issues, and the names of the defendants against whom you determine the issues, together with the amount of the verdict signed by you.

I think that covers it, don't it, gentleman?

When you have retired to your jury room, gentlemen, you will elect one of your members as foreman. When you
4690 have agreed upon your verdict, your foreman will sign the verdict, and you will be conducted into court, and it

will be received in your presence and made a record of the court and entered on the minutes of the court.

Gentlemen, do you receive sealed verdicts here?

Mr. McDonough: Yes, sir.

The Court: It is my practice, and I think that this jury should be allowed to separate in the night. I think this jury should be kept together now, gentlemen; I am utterly opposed to turning a jury loose after the case has been submitted to them.

I think, gentlemen, before I close, that I will say to you that under the law and the practice as it has been administered by this court, if you should agree late at night a sealed verdict may be returned. Now, if you agree upon a verdict before nine or ten o'clock at night, and will communicate with me, I will come up and receive it to-night or tomorrow night or whenever it is, and if it is later than that time, then you are instructed by the court that you will be furnished with an envelope, a large envelope, by the clerk, and after your verdict has been agreed upon, it will be necessary for you to compete it, by filling out whatever blanks are necessary and signing it, and thereupon you are authorized to separate, and go about your respective businesses, remembering, gentlemen, however, that under your oaths as jurors, it is just as sacred a duty to conform to the instructions of the court with reference to that sealed verdict, as any other that has been imposed upon you, and that duty is to speak to no one, or in the presence of any one relative to the verdict that has been found, the kind of a verdict that has been found, or that a verdict has been found, keeping inviolate the knowledge of what you have done, until you return here tomorrow morning at ten o'clock, and then your sealed verdict will be
4691 delivered to the clerk, opened in your presence, read and entered as if you had come in, and the court has received it.

Gentlemen, I will now receive your exceptions.

Mr. Warrum: The defendants separately except to the instruction which submits to the jury the question that the United Mine Workers of America in its entire membership can be held responsible for the conduct of a local strike when violence is used without showing that the entire membership participated in the wrongful acts, and without full knowledge of the same ratified such wrongful conduct before the institution of this suit.

The Court: Exception allowed.

Mr. Warrum: And the defendants severally except to that part of the court's charge which submits to the jury the question that the controversy between the miners and the plaintiffs in question was under the control of the International association and its officers, and that they were charged with the duty of preventing violence and with the responsibility of any violence that occurred or any wrongful acts that were committed.

The Court: Exception allowed.

Mr. Warrum: Now, with reference to the written instructions that were filed, they were referred to by numbers.

The Court: Just take the exceptions to all that were disallowed. What numbers are they?

Mr. Warrum: I think 1 to 14.

The Court: One to eighteen, except such as were given.

Mr. Grant: And the same on behalf of District 21.

The Court: From 1 to 15, except such as were given, and the court will consider the exceptions taken to the originals separately.

4692 (Instructions to the Jury requested by the Defendants.)

The following instructions were requested in writing by the defendants the United Mine Workers of America, and were refused by the court:

I.

You are instructed that under the proof in this case the Coronado Coal Company has failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for the defendant as against that plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. 1 the defendant United Mine Workers of America duly saved their exception.

II.

You are instructed that under the proof in this case the Denman Coal Company has failed to established a cause of action against the United Mine Workers of America, and your verdict must be for that defendant as against that plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. 2 the defendant United Mine Workers of America duly saved its exception.

III.

You are instructed that under the proof in this case the Mammoth Vein Coal Company has failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for that defendant as against that plaintiff.

Refused. J. D. E.

4693 And to the action of the court in refusing to give said instruction No. 3 the defendant United Mine Workers of America duly saved its exception.

IV.

You are instructed that under the proof in this case the Bache-Denman Coal Company has failed to establish a cause of action against the United Mine Workers of America and your verdict must be for that defendant as against that plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. 4 the defendant United Mine Workers of America duly saved its exception.

V.

You are instructed that under the proof in this case the Hartford Coal Company has failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for that defendant as against that plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. 5 the defendant United Mine Workers of America duly saved its exception.

VI.

You are instructed that under the proof in this case the Sebastian County Coal Company has failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for the defendant as against that plaintiff.

Refused. J. D. E.

4694 And to the action of the court in refusing to give said instruction No. VI the defendant United Mine Workers of America duly saved its exception.

VII.

You are instructed that under the proof in this case the Mammoth Vein Coal Company has failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for that defendant as against that plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. VII the defendant United Mine Workers of America duly saved its exception.

VIII.

You are instructed that under the proof in this case the Mammoth Vein Royalty Company has failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for that defendant, as against that plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. VIII, the defendant United Mine Workers of America duly saved its exception.

IX.

You are instructed that under the proof in this case the Prairie Creek Coal Mining Company has failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for that defendant as against that plaintiff.

Refused. J. D. E.

4695 And to the action of the court in refusing to give said instruction IX the defendant United Mine Workers of America duly saved its exception.

X.

You are instructed that under the proof in this case the receivers, C. H. Finley and H. P. Hilliard, have failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for that defendant as against that plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction X the defendant United Mine Workers of America duly saved its exception.

The following instructions were requested in writing by the defendant District Twenty-one of the United Mine Workers of America and were refused by the court:

I.

You are instructed that under the proof in this case the Hartford Coal Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant as against the plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. I the defendants duly separately and severally saved their exception.

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II.

You are instructed that under the proof in this case the Sebastian County Coal Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant, as against the plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. II the defendants duly separately and severally saved their exception.

III.

You are instructed that under the proof in this case the Mammoth Vein Coal Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant, as against the plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. III the defendants duly separately and severally saved their exception.

IV.

You are instructed that under the proof in this case the Mammoth Vein Royalty Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendants as against that plaintiff.

Refused. J. D. E.

4697 And to the action of the court in refusing to give said instruction No. IV. the defendants duly separately and severally saved their exception.

V.

You are instructed that under the proof in this case the Prairie Creek Coal Mining Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant as against that plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. V the defendants duly separately and severally saved their exception.

VI.

You are instructed that under the proof in this case the receivers C. H. Finley and H. P. Hilliard have failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant, as against the plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. VI the defendants duly separately and severally saved their exception.

VII.

You are instructed that under the proof in this case the Coronado Coal Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant as against that plaintiff.

Refused. J. D. E.

4698 And to the action of the court in refusing to give said instruction No. VII the defendants duly separately and severally saved their exception.

VIII.

You are instructed that under the proof in this case the Denman Coal Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant as against that plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. VIII the defendants duly separately and severally saved their exception.

IX.

You are instructed that under the proof in this case the Mammoth Vein Coal Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant as against that plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. IX the defendants duly separately and severally saved their exception.

X.

You are instructed that under the proof in this case the Bache-Denman Coal Company has failed to establish a cause of action against District No. 21 of the United Mine
4699 Workers of America, and your verdict must be for said defendants as against that plaintiff.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. X the defendants duly separately and severally saved their exceptions.

XV.

If you find from a fair preponderance of the evidence that the defendant Locals were agents of District 21 of the United Mine Workers of America, and that they or any of their members or officers engaged in an unlawful conspiracy to interfere with the plaintiffs production of and interstate commerce in coal, the said District 21 would not be liable unless its entire membership had with full knowledge of the

facts and before the institution of this suit adopted and ratified such unlawful perversion and illegal conspiracy, but only such members of District 21 should be held responsible as the evidence may show to have participated in or ratified such perversion or illegal conspiracy.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. XV the defendants duly separately and severaly saved their exception.

The following instructions were requested in writing by all of the defendants separately and were given by the court:

XI.

Before you can find for the plaintiffs or either of them
4700 as against District Twenty-one of the United Mine Workers of America you must first find by a preponderance of the evidence that the entire membership of said District engaged in a conspiracy to interfere with the plaintiffs in their production, shipment and selling of coal in interstate commerce, or that it delegated authority to its officers or some of its members to engage in the conspiracy, or that it permitted its officers or some of them, or some of its members, to engage in the conspiracy under circumstances that it knew or ought to have known of the unlawful character of such conspiracy, or that it ratified said unlawful conduct with full knowledge of the facts before the institution of this suit.

Given. J. D. E.

XII.

Before you can find for the plaintiffs, or either of them as against any Local Union defendant in this case, you must first find by a preponderance of the evidence that the entire membership of the Local Union engaged in a conspiracy to interfere with the plaintiffs in their production, shipping and selling of coal in interstate commerce, or that they delegated authority to their officers or some of their members to engage in the conspiracy, or that it permitted its officers or some of its members to engage in the conspiracy under circumstances that they knew or ought to have known of the unlawful character of such conspiracy, or that they ratified said unlawful conduct with full knowledge of the facts before the institution of this suit.

Given. J. D. E.

4701

XIII.

Before you can find for the plaintiffs in this action you must find from a preponderance of the evidence that the defendants or some of them, entered into and were parties to a conspiracy to prevent the plaintiffs from producing, selling and shipping coal in interstate commerce, and that in carrying out such conspiracy the defendants, or some of them, damaged or destroyed the plaintiffs property.

But, if you find that the conspiracy in question, if any, which existed among the defendants or some of them, was for the purpose of driving the armed guards and employees of the plaintiffs out of the neighborhood on account of alleged insults and abuses which they had committed upon the citizens of that community, and that an attack was made upon such guards and employees for such purposes and no other, then you can not find for the plaintiffs in this case and your verdict should be for the defendants; even though you may further find that in the fight between the two forces the plaintiffs' property was damaged and destroyed.

Given. J. D. E.

XIV.

If you find that any of the plaintiffs were not engaged in the production and shipment of coal at the time of the injuries complained of and had not been engaged in such production or shipment of coal for a long period of time theretofore, and were not preparing to resume the production or shipment of coal until the market justified such operation then your verdict should be against such plaintiff or plaintiffs.

4702

Given. J. D. E.

XV.

The jury are instructed that before a person can be bound by the ratification of an act done on his behalf by one professing to act as his agent, it must appear by a preponderance of the evidence that he was fully informed of all the material facts affecting his rights in the transaction, and unless it does so appear he will not be bound by an unauthorized act upon the ground of ratification alone, and if the alleged acts of ratification are done in [ognorance] of, or under a mistake of, any of the material facts affecting the interests of the principal, then the act of ratification will not be binding on the principal.

Given. J. D. E.

The following instructions in writing were requested by all of the defendants separately and were refused by the court:

XI.

You are instructed that under the proof in this case the plaintiff has failed to establish the allegation of their complaint that the United Mine Workers of America has been engaged in a long standing and wide-spread conspiracy to interfere by unlawful means with the production and commerce of non-union coal, and you are therefore instructed that whatever conspiracy you may find, if any, to have existed among the defendants, or any of them, which resulted in the destruction of the properties of the plaintiff companies, or any of them, cannot be considered by you as
4703 arising out of a general conspiracy on the part of the United Mine Workers of America to interfere with the production and commerce of non-union coal.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. XI the defendants duly separately and severally saved their exception.

XII.

I instruct you that the character and purposes of the defendant associations are lawful as expressed in their constitutions; and I further instruct you that the officers of the United Mine Workers of America had no right to pervert the association to unlawful purposes, or to participate in the unlawful conduct in the name of the said United Mine Workers of America, and that any such perversion of the purposes of said association, or any unlawful conduct on the part of its officers in relation to the alleged destruction of the plaintiff's property, would not bind the United Mine Workers of America, unless your further find by a fair preponderance of the evidence that the entire membership of the said United Mine Workers of America had authorized such unlawful conduct on the part of its officers, or with full knowledge of the facts had ratified their illegal conduct before the institution of this suit.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. XII the defendants duly separately and severally saved their exception.

4704

XIII.

You are instructed that if you find by a fair preponderance of the evidence that a conspiracy existed among the defendants, or some of them, to interfere with the production and commerce of coal by the plaintiff companies, or any of them, your verdict should still not be against the United Mine Workers of America unless you further find by a fair preponderance of the evidence that its entire membership authorized its officers or members, or some of them, to participate in said illegal conspiracy, or that such officers or members did participate in such illegal conspiracy, and that the entire membership, with full knowledge of the facts, ratified such wrongful conduct before the institution of this suit.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. XIII the defendants duly separately and severally saved their exceptions.

XIV.

If you find from a fair preponderance of the evidence that the United Mine Workers of America did not have or assert jurisdiction or direction over the controversies between the plaintiff companies and the miners in April, May, June, July and August, 1914, and did not take part in any conspiracy to destroy plaintiffs' property as alleged, then I instruct you that there can be no ratification of the unlawful acts which you may find resulted in the destruction of plaintiffs' property by reason of the fact that certain officers or agents

4705 of said United Mine Workers of America may have assumed to ratify the commission of said acts, unless you further find that such ratification was made with the consent and approval of the membership of the United Mine Workers of America with full knowledge of the facts and before the institution of this suit.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. XIV the defendants at the time duly separately and severally saved their exceptions.

XVI.

It is the law that an act which a corporation or association can not lawfully do in the first instance cannot be ratified by its officers or agents. Such an act is incapable of rat-

ification, and the association or corporation is not bound by any attempted ratification thereof by its officers or agents.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. XVI the defendants at the time duly separately and severally saved their exceptions.

XVII.

It is the law that there can be no ratification of acts which are in violation of the criminal statute, or against the public policy of the state or nation, and upon this principle I instruct you that there can be no evidence considered by you of ratification by the United Mine Workers of America of the alleged illegal conspiracy.

Not within the issues: Refused. J. D. E.

And to the action of the court in refusing to give said
4706 instruction No. XVII the defendants at the time duly separately and severally saved their exceptions.

XVIII.

If you find from a fair preponderance of the evidence that the Districts and Locals are agents of the United Mine Workers of America for the purpose of conducting local strikes under their own direction, then I charge you that such strikes are presumed to be intended to be conducted by lawful means, and that if in the conduct of the strike in question the powers reposed in said district and locals were perverted, and that they or any of their members or officers engaged in an unlawful conspiracy to interfere with the plaintiffs' production of and interstate commerce in coal, the United Mine Workers of America would not be liable unless its entire membership had with full knowledge of the facts and before the institution of this suit acquiesced in and ratified such unlawful perversion and illegal conspiracy, but only such members can be held responsible as the evidence may show to have participated or acquiesced in such perversion and illegal conspiracy, or to have ratified the same with full knovledge of the facts before the institution of this suit.

Refused. J. D. E.

And to the action of the court in refusing to give said instruction No. XVIII the defendants at the time duly separately and severally saved their exceptions.

(Court's Additional Instructions to the Jury.)

Mr. Drinker: In your instruction, in connection with the damages, as to the difference before and after the fire and dynamiting, I don't think that Your Honor meant immediately afterwards, so as to exclude the necessary damages that were suffered afterwards.

4707 The Court: Upon that proposition, gentlemen, you are given the additional instruction, and I knew there was something else. Your attention is called to the fact that one of the elements of damages claimed by the plaintiffs in this case is the destruction of the leasehold interest. You are instructed that whether or not the destruction of that leasehold is an element of damage should be considered as a question, in the opinion of the court, to be determined by you, from all the evidence in the case, and from all of the facts and circumstances as you find them, dependent upon whether or not you find by a fair preponderance of the evidence that the burning of this property, and the dynamiting of these mines, was the proximate cause of this injury, and therefore of this damage.

Proximate cause—what is meant by the term proximate cause? You are instructed that it is that primary moving cause without which it would not have been inflicted, and which, in the natural and appropriate sequence of events and without the interference of any new or independent cause, produced the injury.

What is the proximate cause of an injury is ordinarily a question for the jury. It is not a question of science or legal knowledge. In this case it is to be determined by you whether or not the loss of these leaseholds, under the circumstances as you find them in this case, in the light of the facts and circumstances attending the ownership and possession of these leases, was caused by the destruction of this property of the plaintiffs by burning and dynamiting by the defendants. Whether or not this loss of these leaseholds was the natural and proper sequence of the destruction of such property, without the interference of any other or independent cause.

4708 I think, gentlemen, perhaps that covers it. The court thinks of nothing that he desires to add because of these exceptions that have been noted, and now, gentlemen of the jury, you will retire to your jury room, and give to this case the careful, candid, good judgment that you have displayed throughout the entire trial of the case, return such a verdict as under all of the circumstances and facts, as you find

them, appeals to your judgment and conscience under your oaths as jurors.

(The jury here retired to its jury room.)

The Court: We will now take a recess.

(Court's further Instructions to the Jury.)

And thereafter, on November 21, 1917, the jury came into court and demanded further instructions from the court and the following proceedings were had, to-wit:

The Court: Gentlemen of the Jury, your message in substance that you desired the court to clear up some misunderstanding as to the court's instructions as to the law of conspiracy was received.

Juror Dunigan: Yes, sir, Your Honor, a few of our members wanted a little more information. A few of our members wanted to ask the court a little further on some points of the instructions.

The Court: Gentlemen, the court can't recall every word it said to you. I went over the ground as fully and fairly as I knew how. If there is any proposition of law that you are now uncertain about I will be glad to go over it but I do not feel that you have tried to get a verdict yet; you haven't had time. It is your duty to use your best energies to reach a verdict. But I thought possibly in starting out you might start with a false premise.

4709 Juror Harris: Your Honor, the question that I am puzzled on is whether the United Mine Workers and the general neighborhood went in together there and done this work, would it be considered a conspiracy on the part of the United Mine Workers if they did go in there and do that?

The Court: Yes, sir. That is, finding in connection with the other instructions of the court that I gave you as to the intent and purpose with which it was done. That is an easy question gentlemen, and I am glad you asked me because it is one that there is no use in spending a lot of time on.

Juror Waggoner: How far is it necessary for the plaintiffs to prove that the defendants have violated the Interstate Commerce and was necessary that the conspiracy existed before the 7th day of July, 1914?

The Court: The conspiracy is simply an agreement or understanding to do the thing that they allege was done and act-

ing upon that agreement or understanding, two or more have done the act, not that they did interfere with Interstate Commerce but with an intent to interfere with the mining of non-union coal, coal from a non-union mine for interstate commerce, and with the intent to prevent the shipment of coal then mined or thereafter intended to be mined and shipped in Interstate Commerce and with the intent to prevent the interstate traffic or sale—I should have said to prevent the sale of coal in the different states in interstate commerce in competition with union mined coal. Is that plain?

Juror: Yes, sir.

Juror Calhoun: Would the United Mine Workers as a whole be responsible for the act of a private individual
4710 that is in this company, or that is, is the United Mine Workers responsible for the act of a private member that is in this company, that is not a leader?

The Court: Oh, no, no sir; not as a matter of law. It must be the act performed by the association, its individual members, local or district, or members carrying out the purpose of the unlawful agreement.

Juror Johnson: You said where two or more were implicated in this and done it, the whole union is responsible?

The Court: Yes, if they are carrying out the purposes. Gentlemen, I cannot discuss this with you. It would render your verdict void if I did.

Juror Morrow: I don't know whether that question can be answered or not, but that has been the puzzling question between several of us whether these fees, lawyer fees and doctor bills were paid by the union—

The Court: Gentlemen, that is a fact that you will have to settle. I think the court has gone as far as it should and perhaps further than is necessary. You are excused.

(Court's further Instructions to the Jury and Exceptions thereto.)

And thereafter, to-wit: On November 22, 1917, the court recalled the jury into the court room and the following proceedings were had, to-wit:

The Court: Gentlemen, the court understands you have not agreed upon a verdict yet. Is there anything that the court can say to you that will be of help to you now?

Juror Dunigan: There is nothing that I know of, Your Honor, not on my part.

The Court: What seems to be the stumbling block in the way of an agreement?

4711 Juror Dunnigan: We don't understand the evidence alike; we do not see it alike; we do not agree.

The Court: Are there any questions that individuals would like to ask the court?

Juror Dunnigan: None that I know of.

The Court: Now, Gentlemen of the Jury, this is a pretty serious situation, and I want to say to you that the court has no thought at all of discharging you. You were sworn upon your oaths to do your duty as jurors. In the opinion of the court there is no reason on earth why reasonable men with a due regard for right, and each having due respect and consideration for the other's opinion, should not arrive at a conclusion in this case. What would be a fortune to either of you, or I, has already been spent and a failure to render justice in this and others is what brings the courts into contempt. I say this to you that you may understand the seriousness of your situation. The facts in this case have got to be found by a jury. Another jury will have no better opportunity of knowing what these facts are or be in any better position to determine these facts than you, and it is your duty as jurors under your oaths to get together and return a verdict.

Now, the Federal Courts recognize the right of this court under these circumstances to say what this court believes in relation to the facts in this case, and you are advised that this court is of the opinion that the facts in this case justify you in the conclusion overwhelmingly that it was the policy and therefore the agreement for years of this national organization to prevent mining of non-union coal for the unlawful purposes named in this complaint that it might not come
4712 into competition with union mined coal; that there is no question in this Court's mind but that that strike was ordered down ther for that purpose to prevent the mining of non-union local in these plaintiffs' mines; that the strike was called by those who were the instrumentality of the greater organization, the general organization, the defendants, and their act was its act, and that they put into motion the force that destroyed this property, and that that force was put into mofor the purpose of preventing the mining of that coal, the shipping of that coal, the running of these mines. Why, this

court has not a thought that there would ever have been any trouble there if it had not been for the prevention of the mining of non-union coal. Now, that is the judgment of this court and if it were my duty to decide it I would decide it here. Now, you are not bound by my opinion. I have a right to give you my judgment, however, you are the sole and exclusive judges of the facts and it is for you to determine these issues of fact independent of my judgment and this court believes you ought to determine it and under your oaths as jurors agree upon a verdict.

If there is any question about the law on the responsibility for this, responsibility of the greater organization, that is for the higher court to say, but you cannot reach it until you have done your duty—you are the stumbling block in the way and this whole time is wasted. Now, after I have said what I have, I am going to say that I have no thought of discharging you, you must return a verdict in this case. You are amply qualified to do the right thing as you see it, and as it should be done and the thought of this court is that no other jury will ever be better prepared to render a verdict than you and to separate without a verdict will be to have rendered all
4713 this expense of all this trial for naught—make it necessary to go all over the ground again with no better opportunity on the part of the jury in the box when it has all been done, to do the right thing than you have now, no advantage—none in the world. You see the importance of the situation and I now urge you with the idea of doing the right thing and putting this matter in that condition that a trial of the case with a legitimate end, in which a verdict of the jury will place it. And with a knowledge and feeling of a responsibility and that that responsibility is with you, that you now return to your jury rooms and bring in a verdict.

Mr. Grant: May I take an exception to that part of the charge with reference to the great conspiracy and also that part which is to the effect that the organization put that in force.

The Court: Yes, sir; in the opinion of the court you are entitled to your exception.

Mr. Grant: I just desire to get an exception.

The Court: The exception is allowed.

(Verdict and Exceptions thereto etc.)

And thereafter on the same date, to-wit: the 22nd day of November, 1917, the jury returned into court with a verdict and the following proceedings were had, to-wit:

The Court: Gentlemen, have you agreed upon a verdict?

A Juror: We have, Your Honor.

The Court: Hand it to the officer. Read the verdict Mr. Clerk.

The Clerk (reading):

553 Law. Coronado Coal Co., et al., Plaintiffs, vs. United Mine Workers of America, et al., Defendants. Verdict. We the jury find the isues in favor of the plaintiffs and against the defendants and assess plaintiffs' actual damages at
4714 $200,000.00. John Dunnigan, Foreman.

The Court: Is that your verdict, Gentlemen?

A Juror: Yes, sir.

The Court: Let the verdict be filed and the judgment will be entered forthwith in favor of these plaintiffs and against the defendants for three times the amount of the actual damages as found by the jury, to-wit: three times $200,000.00 or $600,000.00.

Mr. Grant: I would like to except to the form of the verdict for the reason that as we understand it the verdict of the jury should apportion the damages.

The Court: The court is of the opinion that that is true where actions are consolidated and where there are different pending actions. This, however, is only one action. For instance, if there were three actions brought by A, B and C, then you have in your files pleadings in each, then it is true that apportionment should be made, but here the form of the complaint was made and I assume preliminary motions were made—

Mr. Grant: We made the motion, Your Honor, but that was not passed on in the Circuit Court of Appeals and we raised the question and Judge Youmans overruled us on it.

The Court: You are entitled to your exceptions. Let the record show that upon the application of defendants the court grants them a stay of all proceedings except the entry of judgment for the period of ninety days, and within which time to prepare and file and have settled bill of exceptions and prepare and perfect an appeal.

Mr. Grant: That carries with it a stay of execution?

The Court: Yes, everything is stayed for ninety days.

4715 (Certificate of Judge to Bill of Exceptions.)

After the foregoing proceedings were had before the said James D. Elliott presiding, the defendants were severally by the court granted ninety days from the 22nd day of November, 1917, in which to make, tender, have approved and filed their bill of exceptions in this cause, and now come the several defendants who tender and present to the Honorable James D. Elliott, presiding Judge as aforesaid bill of exceptions in this case Volumes numbered 1 to 9 inclusive and pray that the same may be settled, allowed, signed and sealed by the court and made a part of the record, and the same having been examined by said Judge and found to contain all of the evidence adduced at the trial, with the objections made and exceptions saved to the introduction of evidence, and to the refusal of evidence and the rulings of the court during the progress of the trial, and that said bill of exceptions is in all things complete and accurate, the same is hereby settled, allowed, signed and sealed by the said court and judge and made a part of the record in this case, and the Clerk of the Court is hereby ordered to file the same as the bill of exceptions in this cause.

Done on this 7th day of February, 1918.

JAS. D. ELLIOTT, Trial Judge.

4716 Motion For Nunc Pro Tunc Order On Demurrers To Third Amended Complaint.

Filed in U. S. District Court February 15, 1918.

Now come the defendants and move the court for an order for nunc pro tunc entry as of March 21, 1917, showing and reciting that the separate and several demurrers of the United Mine Workers of America, Local Unions Nos. 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841 and 2880 to the Third Amended Complaint filed herein, was by the court on said 21st of March, 1917, overruled with exceptions to said defendants.

And said defendants also move the court for an order for a nunc pro tunc entry as of the 21st of March, 1917, showing and reciting that on said date the separate and several de-

murrers of the defendants P. R. Stewart and all other individual defendants named in said demurrer, which was filed on March 17, 1917, was on said 21st of March, 1917, overruled with exceptions to said demurring defendants.

HENRY WARRUM
COVINGTON & GRANT.
Attorneys for Defendants.

Counsel for the plaintiff appeared to said motion and consented that said nunc pro tunc entry be made for the reason that said counsel remembers that said demurrers were by the court overruled.

JAMES B. McDONOUGH,
Attorney for Plaintiffs.

4717 (Order, February 15, 1918, as of March 17, 1917, overruling the Demurrers to Third Amended Complaint.)

(Before Judge Youmans.)

This February 15, 1918, come the plaintiffs by James B. McDonough, their attorney, and come the defendants by Henry Warrum and Covington & Grant, their attorneys, and on the motion of defendants this day filed, plaintiffs by their said attorney consenting thereto, it is by the court considered and ordered that the order of this court made on the 21st day of March, 1917, in the above entitled cause, but not then entered, be and is hereby entered now for then as follows, to-wit:

This March 21, 1917, come the plaintiffs Coronado Coal Company, et al, by James B. McDonough, their attorney, and come the defendants United Mine Workers of America, Local Unions No. 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, by Messrs. Covington & Grant their attorneys, and the demurrer of said defendants to the third amended complaint in the above entitled cause being submitted, the court being well and sufficiently advised in the premises doth overrule said demurrer. To the action of the court in overruling said demurrer each of said demurring defendants duly excepted at the time.

Also, this March 21, 1917, come the plaintiffs Coronado Coal Company, et al, by James B. McDonough, their attorney, and come the defendants P. R. Stewart, Wm. McLachlin, Jess

Edwards, Charley Farley, Joe Overman, O. A. Brooke,
4718 Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charlie Hendrix, Jim Lee, George Burnett, Pink Dunn, Pete McMullen, John Mastell, James Slankard, M. B. Appleby, Bruce Jordan, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Wm. Rodden, Joe Kerbellas, Jo Lanier, Charles Blackburn, Ed Kehee, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claude Lichford, John Lichford, Otto Altman, Carey Crumpton, Wm. Price, Pete McMullen, Jr., John Murray, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Bud Williams, Brock Smith, Willis Congo, Leslie Congo, Bud Congo, Charles McCowen, J. W. Howard, John T. W. Davis, Edward Cunningham, Tom King, John P. White, Jake Thompson, Jim McNamara, Whit Miller, Joe Coneoda, B. Trout and Joe Assola, by Messrs. Covington & Grant, their attorneys, and the demurrer of said defendants to the third amended complaint in the above entitled cause being submitted, the court being well and sufficiently advised in the premises doth overrule said demurrer. To the action of the court in overruling said demurrer each of said demurring defendants duly excepted at the time.

4719 Order Allowing Interest On Judgment.

Entered in U. S. District Court February 27, 1918.

James D. Elliott, Judge.

In the United States District Court, For the Western District of Arkansas, Fort Smith Division.

Coronado Coal Company, et al, Plaintiffs,
No. 553 vs. Law.
United Mine Workers of America, et al, Defendants.

In the above entitled cause, it appears to the court from the file mark of the clerk, that the plaintiffs herein on November 26, 1917, filed in court a motion to correct the judgment entry in this cause, by adding thereto the sum of One Hundred twenty thousand, six hundred Dollars ($120,600) being interest on Two Hundred Thousand Dollars ($200,000), from July 17, 1914, to November 22, 1917, at six per cent interest, and to treble said interest under the United States Statutes on which the suit is based.

Said motion was argued orally at Sioux Falls, South Dakota by counsel on either side on February 7, 1918. Said motion was taken under advisement and upon consideration

the court finds that the plaintiffs herein are entitled to have said motion sustained.

It is, therefore, by the court ordered, adjudged and considered that the judgment entry in this cause, which
4720 was entered of record on November 22, 1917, be and the same is hereby corrected so as to add to the sum of Six Hundred Thousand Dollars ($600,000), for which judgment was rendered on that date, the further sum as interest of $120,600.00, and that this correction of the judgment be made as of the date of the verdict, to-wit: November 22, 1917.

It is, therefore, by the court ordered, adjudged and considered that the plaintiffs have and recover of and from the defendants, which defendants are named in the original judgment entry, rendering judgment for $600,000, which judgment was rendered on November 22, 1917, the sum of $720,600.00, (Seven hundred twenty thousand six hundred dollars), and that said original judgment entry be and the same is hereby corrected to read as to the amount for the sum of Seven Hundred Twenty Thousand Six Hundred Dollars ($720,-600.00), for which judgment is rendered against said defendants named in said original order, instead of the sum of $600-000.00, and that execution may issue for said sum of $720,-600.00. In all other respects, said judgment as originally entered, remains as entered.

The defendants except to the action of the court in making this order, correcting said judgment and the court allows said exception.

It is further ordered, that this modification of said judgment be entered of record as of November 22, 1917, and that the same be included as a part of the record in any transcript of this cause.

By the court:

JAMES D. ELLIOTT,
United States District Judge.

Defendants except and exception allowed.

4721 JAS. D. ELLIOTT, Judge.

Received, filed and entered February 27, 1918. Wm. S. Wellshear, Clerk.

4722 (Order, February 27, 1918, allowing Attorneys' Fee.)

Before Judge Elliott.

After a consideration of the motion to tax an attorney fee in this cause, the court being well and sufficiently advised in the premises finds that an attorney fee of Twenty-five Thousand ($25,000.00) Dollars is a reasonable attorney fee, within the intent and spirit of the statute, authorizing the taxation of such fee.

It is, therefore, ordered, adjudged and considered that the plaintiff have and recover of and from the defendants as costs an attorney fee of the sum of Twenty-five Thousand Dollars ($25,000.00), and said sum is hereby taxed as costs in this case.

The defendants except to the ruling of the court in this matter, and said exception is duly noted of record.

By the court:

JAS. D. ELLIOTT,
U. S. District Judge.

Received, filed and entered February 27, 1918. Wm. S. Wellshear, Clerk.

4723 Petition For Writ Of Error.

Filed in U. S. District Court March 18, 1918.

To the Hon. James D. Elliott, Judge presiding over the District Court of the United States for the Western District of Arkansas, Fort Smith Division, and to said District Court of the United States for the Western District of Arkansas, Fort Smith Division:

Now come the United Mine Workers of America, P. R. Stewart, Fred Holt, John P. White, John P. White as President of the United Mine Workers of America, P. R. Stewart as President of the United Mine Workers of America, District No. 21; District No. 21 of the United Mine Workers of America, William McLachlin, William McLachlin as President of the United Mine Workers of America, District No. 21, Tom King, Tom King as Board Member of the United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham, and Edward Cunningham as President of District No. 21 United Mine Workers of America, Frank J. Hays, and Frank J. Hays, Vice-President of the United Mine Workers

of America, William Green and William Green as Secretary-Treasurer of the United Mine Workers of America, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendry, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, and Local Unions numbered 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841, 2880, 374 and 586 of the United Mine Workers of America; and
4724 M. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, Joe Kervillas, William Rodden, Charley Blackburn, Joe Lanier, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claude Litchford, John Lichford, Otto Aliman, Carey Crumpton, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Burkett, Willis Congo, Lesslie Congo, Bud Congo, Charles McKowen, J. W. Howard, Bud Williams, (Col), William Price, Peter McMullen, Jr., John Murray, John T. W. Davis, Brock Smith (Col) and Ed Kehee, plaintiffs in error herein, who were defendants in the cause in the District Court of the United States District Court for the Western District of Arkansas, Fort Smith Division, in which the Coronado Coal Company et al were plaintiffs and the United Mine Workers of America et al were defendants; and the said plaintiffs in error, separately and severally, deem themselves aggrieved by the various errors occurring on the trial of the cause at the regular June, 1917, term of the said court, wherein judgment was rendered in favor of the plaintiffs in said court, defendants in error herein, and by the orders, judgments and proceedings had and made in connection with said cause, which errors will more fully appear in the Assignment of Errors filed herewith and made a part of this petition.

Wherefore, the plaintiffs in error severally pray that a writ of error may be issued in their behalf out of the United States Circuit of Appeals for the Eighth Circuit of the United States for the correction of errors aforesaid complained of, and that a transcript of the record, proceedings and papers in this case, duly authenticated, may be sent to the
4725 Circuit Court of Appeals aforesaid; that upon hearing in said Court of Appeals the cause be reversed, and

that the plaintiffs in error have such other and further relief as may be proper in the premises.

HENRY WARRUM
COVINGTON & GRANT.
Attorneys for the
Plaintiffs in Error.

4726 Assignment of Errors.

Filed in U. S. District Court March 18, 1918.

4727 Come the Plaintiffs in Error named in the above entitled caption, being the defendants in the cause below, and separately and severally file the following assignment of errors appearing upon the record in this cause, which plaintiffs in error separately and severally avers to have occurred in the proceedings and upon the trial of said cause, and for which the judgment should be reversed:

1. The Court, being the District Court of the United States for the Western District of Arkansas, Fort Smith Division, erred in overruling the motion of Local Unions Numbers 340, 1130, and 1565 to quash the service of summons upon them, and each of them.

2. The Court erred in overruling the Motion of the United Mine Workers of America to quash the service of summons upon it.

3. The Court erred in overruling the motion of the United Mine Workers of America to quash the summons and service thereof upon it.

4. The Court erred in overruling the demurrer of Local Union number 340 to the original complaint.

5. The Court erred in overruling the demurrer of Local Union number 1130 to the original complaint.

6. The Court erred in overruling the demurrer of Local Union number 1561 to the original complaint.

7. The Court erred separately and severally and in each instance in overruling the demurrers of the several
4728 defendants to the original complaint.

8. The court erred separately and severally and in each instance in overruling the demurrers of the United Mine Workers of America and Local Unions Nos. 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027,

2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841 and 2880 to the Third Amended Complaint.

9. The court erred severally and separately, and in each instance in overruling the demurrers of P. R. Stewart, Wm. McLachlin, Jess Edwards, Charley Farley, Joe Overman, O. A. Brooks, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charlie Hendrix, Jim Lee, George Burnett, Pink Dunn, Pete McMullen, John Mastell, James Slankard, M. B. Appleby, Bruce Jordan, Ed. Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Wm. Rodden, Joe Kerbellas, Jo Lanier, Charles Blackburn, Ed Kehee, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claude Litchford, John Lichford, Otto Altman, Carey Crumpton, Wm. Price, Pete McMullen, Jr., John Murray, Sam Wooten, Marion Hulseu, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Bud Williams, Brock Smith, Willis Congo, Leslie Congo, Bud Congo, Charles McCowen, J. W. Howard, John T. W. Davis, Edward Cunningham, Tom King, John P. White, Jake Thompson, Jim McNamara, Whit Miller, Joe Coneoda, B. Trout and Joe Assola, to the Third Amended Complaint.

10. The court erred separately and severally and in each instance in overruling the motions of the United Mine Workers of America and Local Unions Nos. 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841, 2880 and District 21 of the United Mine Workers of America, to strike
4729 from the Third Amended Complaint the name of each of the plaintiffs and their causes of action, and each of them.

11. And the court erred separately and severally and in each instance, in overruling the motion of the defendants P. R. Stewart, Wm. McLachlin, Jess Edwards, Charley Farley, Joe Overman, O. A. Brooks, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charlie Hendrix, Jim Lee, George Burnett, Pink Dunn, Pete McMullen, John Mastell, James Slankard, M. B. Appleby, Bruce Jordan, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Wm. Rodden, Joe Kervellas, Jo Lanier, Charles Blackburn, Ed Kehee, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claude Lichford, John Lichford, Otto Altman, Carey Crumpton, Wm. Price, Pete McMullen, Jr., John Murray, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Bud Williams, Brock Smith, Willis Congo, Leslie Congo, Bud Congo, Charles McCowen,

J. W. Howard, John T. W. Davis, Edward Cunningham, Tom King, John P. White, Jake Thompson, Jim McNamara, Whit Miller, Joe Codeoda, B. Trout, and Joe Assola, to strike from the Third Amended Complaint the names of each of the plaintiffs and their alleged causes of action.

12. The court erred in overruling the separate and several motions of the defendants to strike from the complaint irrelevant and imporper averments thereof.

13. The court erred separately and severally and in each instance in overruling the several motions of the defendants to require plaintiffs to make their Third Amended Complaint more definite and certain.

14. The court erred in ordering the United Mine Workers of America, John P. White individually and as President of the United Mine Workers of America, and William Green individually and as Secretary-Treasurer of the
4730 United Mine Workers of America, over said defendants' written objection and protest, to produce for the use of the plaintiffs at the trial of said cause, the following books and documents and papers and each of them:

The minutes of the proceedings of the National Executive Board of the United Mine Workers of America for the year 1914.

The correspondence between John P. White, as President of the United Mine Workers of America on one side, and P. R. Stewart, President of District 21, Fred Holt, Secretary of said District, and James Mullen, a board member, said correspondence taking place between April 1, 1914, and January 1, 1915.

The expense accounts of James Mullen, Executive Board member and K. C. Adams, Publicity Agent, covering the period of April 1, 1914, to January 1, 1915.

All contracts in effect between March, April, May, June and July, 1914, between the United Mine Workers of America, or any District thereof, and coal operators in the United States or Canada.

The proceedings of all conventions of the United Mine Workers of America beginning in 1898 end ending with the year 1916.

The bound and printed volumes of the United Mine Workers Journal beginning with the years 1892 and ending with the years 1916.

The printed volumes containing the proceedings of the joint conventions of United Mine Workers and coal operators and coming down to and including the proceedings of the conference for 1916.

15. The court erred in requiring District 21 of the United Mine Workers of America, over its written objection
4731 and protest to produce for the use of the plaintiffs at the trial of said cause, the minutes of the convention proceedings of said district for the years 1914, 1915 and 1916; also the reports of all officers of said district for the years 1914, 1915 and 1916.

16. The court erred in requiring the defendants Local Unions Nos. 560, 340, 1130, 1526, 1530, 1565, 1810, 1814, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841 and 2880 and each of them over their written protest and objection to produce at the trial for the use of plaintiffs the following books and papers and documents, and each of them:

The several Treasurer's reports, expense accounts and memoranda of disbursements of the funds of the said local unions.

17. The court erred in requiring the defendant District No. 21 over its written protest and objection to produce at the trial for the use of the plaintiffs all returned checks in its possession executed and paid in the disbursements of the funds of said District from April 1, 1914 to January 1, 1916.

18. The court erred in overruling the separate and several motions of the defendants in writing filed during the trial of said cause to strike from the record certain documentary evidence consisting of articles from printed volumes purporting to contain the proceedings of the joint conferences of the United Mine Workers of America and coal operators of the Central Competitive Field.

19. The court erred in permitting the plaintiffs in connection with the deposition of William Green, and as exhibits thereto, to introduce in evidence the provision in the agreement between the miners and operators for the State of Illinois expiring March 31, 1914, being Green ex-
4732 hibit No. 5, the clause in said agreement providing for the check-off, which, in substance provided that the operators contracting with the miners agree to check off union dues, assessments and fines from the miners' and mine laborers' when desired on individual or collective continu-

ous order, not to exceed five dollars in any one pay for fines and initiation fee except by special agreement.

20. The court erred separately and severally in each instance in permitting the plaintiffs over the objection of the defendants to introduce in evidence the provisions in exhibits Nos. 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 providing in each instance for a check off by the operators contract with union miners of dues, assessments, fees and initiations upon proper individual or collective continuous orders of the members of the union, the said exhibits being voluntary agreements between the union miners and the operators, and being in substance and effect as follows: The operators will recognize the Pit committee in the discharge of its duties as herein specified, and not otherwise, and agree to check-off union dues, assessments, fines and initiations from the miner and mine laborer when desired, on proper individual or collective continuous orders and furnish to the miners' local representative a statement showing separately the total amount of dues, assessments, fines and initiations collected. Union charges not to exceed five dollars per month shall have priority over all other charges except hospital fees, rent, light, water and mining expenses. In case any fine is imposed the propriety of which is questioned, the amount of such fine shall be withheld by the operator until the question has been taken up for adjustment and a decision has been reached.

4733 21. The court erred in permitting the plaintiffs over the objection of the defendants to introduce in evidence editorial appearing in Mine Workers Journal of October 13, 1910, in substance as follows, to-wit:

"Members of the United Mine Workers of America should keep in mind that they belong to an International organization, and its prestige for permanent good will always depend upon its International influence.

"The founders of the United Mine Workers of America fully recognize the enormous work incident to the successful management of the union and the necessity of dividing the work and responsibility into different departments or divisions.

"The International organization is divided into districts, sub-districts and Local Unions, all receiving their existence and authority from the International headquarters and all subordinate to International authority. This was done in order that there might be no conflict of authority in the ad-

justment of the various questions affecting the rights of the membership.

"The Local Union is the most effective and influential division of the United Mine Workers in making the organization a success and power to protect the rights of its members. The Local Union is the recruiting station, the place where the membership is taught the reasons why they should be active union men.

"The sub-district is organized to include within its jurisdiction mines that have nearly like conditions in order that the sub-district officers may be able to adjust any disputes that arise and to that extent lighten the work, the burdens and responsibility of the district officers. Sub-
4734 districts when properly organized, officered and directed are a power in enforcing the terms of wage agreements.

"The districts are organized to exercise jurisdiction over all mines within certain limited territory defined by the International Executive Board or by an International Convention if it so desires. The authority to define district lines is delegated to the International Executive Board for the reason that the Board Members would naturally investigate thoroughly the relation of one district with another and the necessity of certain mines being under the jurisdiction of certain districts. The District Organizations have certain authority delegated to them and they are likewise a power to promote and protect the welfare of the membership.

"The International Organization exercises its authority over the districts, sub-districts and Local Unions and this authority is delegated to the International Union, not by the district or the sub-district, but by the representatives direct from the Local Union. The authority of the International Union is derived direct from the membership and the authority is delegated to the International organization to divide the various mining communities of the country into districts and sub-districts. The object of the International Union is to bring into closer relationship the entire membership of the country and through its officers to be able to advise and recommend to the membership what is to their best interests and to formulate such plans as necessary to carry into execution any policies that an International Convention may adopt.

"An investigation of the jurisdiction and authority of the International Organization of the United Mine Workers as

well as its various sub-divisions, will convey to men's
4735 minds that the founders of the United Mine Workers had a very clear and keen conception of what was necessary in order that our organization would be successful in extending its influence, its power and its prestige over the entire mining industry of the country. The founders planned well when the United Mine Workers was organized. It will be for the membership of the organization to continue to carry into effect the plans upon which the organization was founded and to adopt such new policies as may bring a greater measure of success to the United Mine Workers organization.

"It is the duty of the International officers of the United Mine Workers to make such recommendations as in their judgment may be beneficial to the membership. It is the privilege and the right of the membership through their representatives in International Convention to either reject, amend or adopt the recommendations offered by their official representatives. It is also the right of the membership through their representatives to offer such propositions as they in their judgment believe to be to the best interest of the organization. When a majority of the members through their representatives in convention decide upon a policy, it is then the duty of the officers to endeavor to carry into effect those policies, and especially if those policies are in line with the principles and constitution of the International Organization.

"In order to secure the greatest measure of success the membership, as well as the officials, should give their loyal and active support to the International administration. If the policies of the International administration prove to be a failure after the International Officers have received the active,
united and loyal support of the subordinate officers and
4736 members of the organization, then the International administration should be held responsible for failure. There is no way to determine whether or not the policies laid down by International Conventions will be a success unless the membership will be active and loyal in their efforts to help carry those policies into effect.

"A number of the members of the United Mine Workers seem to believe that they are doing their duty to themselves and the organization by going out and misrepresenting their leaders, circulating misleading, and in many instances untruthful things about the officers and the members of the United Mine Workers. It is to be regretted that some members of the organization either have no conception of the meaning of their obligation or have never taken the obligation

of the United Mine Workers or have permitted themselves to forget what the obligation itself means. If a man who is a member of the United Mine Workers is true to the obligation, he cannot injure a brother member. This fact should be kept in mind and the membership would then be astonished how much more powerful the organization would become and how much easier it would be to organize the non-union mining districts of the country."

22. The court erred in permitting the plaintiffs to introduce in evidence over the objection of the defendants a news item appearing in the Mine Workers Journal of April 1, 1909, as follows:

"Orders Strike of 1,000 Miners.

Ft. Smith, Ark. March 20.

A strike in the mines of the Bache-Denman Coal Company, Coronado, Ark., has been ordered by President Peter
4737 Stewart of District 21, United Mine Workers of America.

About a thousand men are involved. The union is fighting the company's system of working the men "double in each room of the mines' ".

23. The court erred in overruling the motion of defendants to strike out the news item which the plaintiffs introduced from the Mine Workers Journal of April 1, 1909, as set out in the preceding assignment.

24. The court erred in permitting the plaintiffs to introduce in evidence over the objection of the defendants an article in the United Mine Workers Journal of July 7, 1910, as follows:

"Lewis and Elliott in Conference.

"Quick Results Are Now Expected From Lewis And Elliott-Lewis' Statement.

Kansas City, Mo. June 25.

"For the first time in the history of the coal mining industry in this country, two men, one representing the operators and the other the miners have been clothed with authority to arrive at an agreement over the new wage scale which has been troubling the operators and miners of the Southwest, and as a result of which there are now about 30,000 idle miners in the district tributary to Kansas City.

"The two-man committee is composed of Thomas L. Lewis, President of the United Mine Workers of America, and James

Elliott, representing the coal operators of the Southwest. Authority for these men to arrive at an agreement was given by the conference committees a week ago."

"Unionization At Stake. * * * There are several points at issue which will require much consideration by these
4738 two men. One is the wage question and the other the working conditions at the mines. The operators now claim that if the scale adopted here, together with the adoption of the same working conditions that many of them would be compelled to close their mines because of the competition from the Illinois fields. The operators here have to compete with the oil and gas producers, and the Illinois operators have no such competition.

"Mining Expense Large.

"This compels the Southwestern Operators to sell a part of their coal at a figure practically below the cost of mining, because the expenses of mining and distribution, as well as the other expenses, must be secured from the profit on the sale of the other coal. This must be sold so as to compete with the Eastern coal. The expense of mining coal in this district is said to be much larger than in Illinois because of the difference in thickness of the coal veins, the timbering and other mining necesary to get the coal from the ground."

25. The court erred in permitting the plaintiffs over the objection of defendants to introduce in evidence an article from the Mine Workers Journal of September 26, 1912, as follows:

"From Illinois.

Our Duty To Help West Virginia.

Belleville, Ill., Sept. 19.

"West Virginia has always been the barrier to our progress, a dagger in the heart of the United Mine Workers of America, by its unorganized condition.

"In every interstate joint conference between the Min-
4739 er and Mine Owners the latter have raised West Virginia as the battle cry against our demands. The vast amount of non-union coal that is mined for practically nothing in that state has made inroads in the markets that rightfully belong to the central field to such an extent that we have reached the limit of our progress in the way of higher wages and better conditions. The east must be brought up. And if there ever was a time to withdraw that dagger from our hearts

and forever wipe out that cry of 'Cheap Coal' from West Virginia, that time is now.

"ADOLPH GERMER."

26. The court erred in permitting the plaintiffs over the objections of the defendants to introduce in evidence the following article appearing in the Mine Workers Journal of July 23, 1914:

"From Arkansas.

"The Strike Is Still On.

"I want space in the Journal to tell of some of the conditions existing at Prairie Creek No. 4.

"We had a little trouble here on Saturday night July 12th. Some of the scabs got out of the bull pen and started to shoot up camp Beulah, at the Mammoth Mine. There was quite a number of shots fired, but none of the miners or their families were injured.

"The men are firm and out to win. Everything has been quiet since Sunday night. Our District President and some of the boys have been on trial over an injunction.

"We are asking all men to stay away from here until this trouble is settled, as it is supposed they have agents out looking for men. Will give you the news through the Journal.

"We have the regular type of scabs at this place.

4740 "W. H. CLUCK."

27. The court erred in permitting the plaintiffs over the objection of the defendants to introduce in evidence an article from the Mine Workers Journal of April 16, 1914, as follows:

"Arkansas Miners Determined

"Demand Union Conditions.

Fort Smith, Ark., April 7.

"Unionists today frustrated an attempt of the officials of the Bache-Denman Coal Company's mine, at Midland, near here, to strangle their organization and operate under an 'Open Shop' policy. Previous to this decision 200 union men had been employed.

"The miners met about a mile from the Mammoth Vein mine, as the mine is known, and held meetings. They were addressed by a number of speakers, including Miss Freda Hogan, daughter of Daniel Hogan, a prominent socialist. Fol-

lowing the meeting the men formed in line and marched to the mine.

"Several clashes marked the efforts of the unionists to persuade the men in the mine to join them. Following a disturbance in which two guards were hurt, the miners joined the unionists and left the pit. A United States flag was then hoisted from a nearby pole and the crowd departed.

"The company has announced its determination to inaugurate the 'Open Shop' policy as its six other mines in Western Arkansas and Eastern Oklahoma next fall. At present they are closed for the summer."

28. The court erred in permitting plaintiffs over the objections of defendants to introduce in evidence an article from the United Mine Workers Journal of July 9, 1914, as follows:

4741 "From Arkansas.

"Fight on at Hartford.

"Hartford, Ark., July 3.

"I wish to have a few words in the journal in regard to the strike at No. 4 Prairie Creek, for which they are scabbing, and furthermore new men are coming in from all over the country. Some think No. 4 is working under union conditions and I wish to help strangers out so they will not come to Prairie Creek No. 4.

"The Bache and Denman Coal Co. have wires around the shaft and tents in the bull pen in which they have about 120 scabs and new ones coming in every day. The company has put the union miners out of their houses so they may have more room for more scabs. The men here are in tents in the backwoods, so do not let the labor agent talk you into coming to Prairie Creek No. 4. We are out to win and we intend to do so. We have a strong bunch of scabs here. We have scabs from Spadra, Ark., and U. S. gunmen who have come here from Colorado to guard the Arkansas scabs.

W. H. CLUCK."

29. The court erred in permitting plaintiffs over defendants objections to introduce in evidence an article from the United Mine Workers Journal of July 23, 1914, as follows:

"The Truth About Hartford, Arkansas.

"Attempts on the part of the hired army of the Bache-Denman Company, New Hartford, Ark., to emulate the Colorado

gunmen militia brought about an outbreak on the part of the union miners, in which the gunmen were badly worsted.

"When the Bache-Denman Company broke with the organization and locked out the union miners, the organiza-
4742 tion in District 21 furnished tents for the miners who were evicted from the company's houses.

"The tents were on private grounds, rented by the organization; were as much the property of the men who live therein as is the mine tipple the offices, or any other of the buildings around the mine the property of the company.

"More than that, the tents were, and are, the only shelter these men have—the only protection for their wives and children.

"The operators recognize that these tent colonies indicate to any of the men they may bring in under false representations the fact that a strike is on. Many such men have turned back when they saw these tent homes.

"For many weeks past the private army of the operators harrassed the miners and their families in their tent homes. Night after night the tents were shot into from the surrounding woods. Men and women going from the tent colony on business of their own have been waylaid and beaten. Many of the men have gone out from the camp and never returned. In fact, the conditions surrounding the miners' camp indicated that a repetition of the Ludlow horror was the intent of the gunmen.

"All night Thursday the tents of the miners had been the targets of the hired thugs. Union miners living at a distance heard of the attack. Determined that a massacre like that of Colorado should not be perpetrated upon their friends and relatives, many men marched to the rescue. The sharpshooters were dislodged and followed to their camp; shots were exchanged all the way. The miners then determined to destroy the enemies' stronghold as a matter of protection for their homes, the only shelter of their families.

4743 "We do not advocate force as an argument. We would adjust all of our differences at the council table, if the choice was ours. But when it is necessary to protect our homes, our families from the attacks of the hired ruffians who do not spare, as we have learned to well, the mother or the babe, to whom murder and arson are 'all in the day's work', we applaud the men—would be glad to personally aid

the men who defend their homes, even though it be necessary to follow their assailants to the shelter of the companies' buildings, their rallying place, from which they come forth at night on their work of destruction."

"There are no arguments we can offer to the hired gunmen of the company. Their work is to cast the bludegon of force into the scales of reason.

"We maintain, and those who have not been prejudiced by lying reports, and are not personally interested, will agree that the men of Arkansas had a perfect right to protect their homes and their loved ones from a like fate as that which overtook the victims of greed and violence at the Ludlow tent colony".

30. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence an article from the Mine Workers Journal of July 30, 1914, as follows:

"Miners Wait Contempt Decision Of U. S. Judge

"Union President and Six Others Figure in Case of Unionist.

"Huntington, Ark., July 25.

"United States Judge Youmans will render his decision in the contempt charges against President P. R. Stewart, of the miners' union, and six others within the next three weeks. The cases occupied the time of the Federal Court for the past two weeks. Over a hundred witnesses were summoned.

4744 "Judge Youmans stated at the conclusion of the arguments by the counsel for the Mammoth Vein Coal Mining Company and the United Mine Workers of America that he wanted to examine the testimony of the witnesses further and that he would render his decision later. The defendants are under bonds of $100 each.

"Fred W. Holt, secretary of District 21, of the miners' union, testified that he shipped guns from McAlester, Okla., his home, to Midland, for the purpose of enabling the miners to protect their wives and children against the outrages committed by the private armed guards. He stated that the arms were shipped without the knowledge of President Stewart. Deputy Marshal Jim Holt, who has been stationed at Mine Uo. 4 to keep Marshal Frank Mayes advised of the situation, when placed on the stand denied the testimony of the company guards.

"President Stewart testified he had always advised the members of the union residing at or near Prairie Creek not to violate the injunction."

31. The court erred in permitting plaintiffs over the objection of defendants to read in evidence an article appearing in the Mine Workers Journal of July 30, 1914, being an article contributed by Eugene V. Debs, as follows:

"Bravo,

"Arkansas Coal Diggers!

(By Eugene V. Debs.)

"Hats off to the Arkansas coal miners!

"They have routed the gunmen and delivered a bodyblow to government by assassination.

"For some time there has been a strike on in the Hartford Valley, where one Franklin Bache arbitrarily refused
4745 to deal with the union and insisted upon operating a scab concern. When the miners in his employ struck he promptly did what the operators in West Virginia and Michigan did, and what the operators in Colorado are now doing, namely, he ordered out his privately owned and armed gunmen and assassins, a small army, equipped with high power rifles, to slaughter the miners and their wives and babes and re-enact Ludlow.

"But the miners had heard of West Virginia and Michigan and Colorado, and they were not caught napping. They were not so well armed as Bache's red-light gunmen, but what they lacked in physical equipment was more than made up in moral stamina, and when the smoke of battle cleared away several gunmen were found to have bitten the dust and the rest vanished into mist and no trace of them has been found since.

"Bravo, ye coal-digging slaves of the pits! You have done your duty in a heroic manner and deserve the applause of all honest men. May the miners everywhere catch your brave spirit and follow your inspiring example!

"Government by private gunmen and the massacre of honest toilers must be put an end to in the United States.

"We Socialists are for peace and we are steadfastly opposed to violence except when lawless violence is forced upon us and we are compelled to fight for our lives and in defense of our families and homes.

"In recent years the great truths and corporations have gone entirely outside of the law to wage their lawless warfare on lawful labor unions. They have established their thug-recruiting agencies in all the large cities, through which they drag the slums to recruit their army of cutthroats and assassins.

4746 "This private army of the corporations, an absolutely lawless gang of man-killers, is armed with machine guns and high power rifles, and when working men go out on strike as they have a lawful right to do, the corporation army of private thugs is at once ordered out to shoot them down like dogs and to insult, outrage and slaughter their wives and babes, as they did in Cabin Creek, Calumet and Ludlow.

"To submit peaceably to such criminal invasion of their rights and such infamous outrages upon their manhood, workingmen must be sunk to fathomless depths of degradation and dead to every sentiment of self respect.

"In the case down in Arkansas the scab operator, following the example set by the operators in other States, has his court injunction issued, ordered out his private army of man-killers, then sat himself smugly down in his easy chair to wait until the miners whose labor had enriched him lay weltering in their own blood.

"But this particular operator was fooled. He got his lesson and he will not forget it. When the battle was over his private army was annihilated and his mines and tipples, to the value of $200,000, blown up with dynamite, a mass of ruins.

"This is the way government by gunmen and assassins should be made to react upon the criminal master class every time they put it in operation.

"Bravo, once more, Arkansas coal diggers! You have set a heroic and inspiring example to the working class of the nation.

"The corporation gunmen who massacre workingmen, murder women about to become mothers and suffocate and roast babies as they did at Ludlow, are the most de-
4747 testable of degenerates and the vilest of outlaws. They are more dangerous than maddogs and should be treated accordingly. They have absolutely no right that any honest workingman is bound to respect.

"They are private assassins and public enemies. They are the fomentors of strife, the inciters of riot and the shedders of innocent blood. They are a perpetual menace to peace [abd] good government and they thrive only in violence and crime.

"When these miscreants are sent out to slaughter honest men, pillage their homes and kill even the babies in their cribs, it is time to take up arms against them.

"If the law under capitalism permits lawlessness and violence on the part of the corporations and their private army of thugs, and workingmen are denied the protection of the law, then nothing is left for them but to defend themselves and their loved ones, and if they have not the manhood to do this, they deserve to be crushed beneath the iron heel of their despotic masters.

"Fred W. Holt, secretary of district 21 of the United Mine Workers, testified in court that he had shipped the guns from McAlester, Okla., his home, to the miners in Arkansas" "for the purpose of enabling them to protect their wives and children against the outrages of the private armed guards." "

"All honor to Holt for having shipped the guns to the unarmed miners and for standing up in court like a man and admitting it!

"If government by gunmen is to prevail, then liberty is dead and the labor movement a farce.

"The Arkansas miners have throttled the monster
4748 and I appeal to the miners everywhere to arm themselves and prepare to do the same. They are strictly within their lawful right in arming themselves against lawless invasion and in defense of their homes.

"The next assessment that is levied by the United Mine Workers and the Western Federation of Miners should be levied for the raising of a gunmen defense fund for furnishing each member with a high power rifle and 500 rounds for the protection of their lawful rights, the defense of their wives and children and for wiping out government by gunmen and assassination in the Unted States."

32 The court erred in permitting the plaintiffs over the objections of defendants, to introduce in evidence a statement appearing in the Mine Workers Journal of March 30, 1911, to the effect that the editor was not responsible for the

views expressed in the Journal except the unsigned matters appearing on the editorial page, and in connection therewith permitting the plaintiffs over the objections of defendants, to offer all the Journals after April 1, 1911, to show that the notice contained in said sheet of March 30, 1911, had been omitted.

33. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence a letter appearing in the United Mine Workers Journal of August 6, 1914, as follows:

"Scab Expelled.

Denning, Ark., July 29

"Complying with the instructions of L. U. 1814 I hereby ask you to publish the name of one Lorenzo Hallowell as a scab. He was formerly a member of this local and 4749 has confessed to guarding scabs for the Bache-Denman Company at Prairie Creek during the recent trouble at that place.

E. B. STOCKTON,
Sec. L. U. 1814."

34. The court erred in permitting plaintiffs over the objections of defendants to introduce in evidence an article appearing in the Journal of November 19, 1914, copied from the Hartford Observer, reading as follows:

"The History of the Case.

"So many and such grossly exaggerated and false reports have been circulated in regard to the so-called 'strike' at Prairie Creek that perchance a plain, unembellished statemen of the true facts as the citizens of the Hartford Valley see them, may help to ameliorate the unsavory reputation attained for the town and its inhabitants by the yellow tactics employed by some other papers that could be named.

"There has been no strike at Prairie Creek at any time. The Bache-Denman Company last winter closed down one after another of its mines until only No. 4 was working. On March 25 a notice was posted ordering the men at that mine to clean up and remove their tools. This order was obeyed. On April 3 the mine was opened up with non-union labor.

"The Bache-Denman Company at that time had a signed contract with the union which did not expire until July 31. They, without presenting any excuse, abrogated this contract and at the same time withdrew from the Southwestern

Coal Operators' Association. Two years previously a similar traitorous act had 'got him in bad' with the operators and no one knew what next to expect.

"On April 6 an immense mass meeting was held at
4750 at Prairie Creek school house, at which probably 2,000 persons were present. The meeting was called for the expressed purpose of impressing on the company and its employes the strong union sentiment that prevailed throughout the district.

"All the speeches made counseled against violence, violation of law, or destruction of property. But in spite of this a few hot heads were drawn into fist fights with some of the guards and employes. On April 9 the company secured a temporary injunction restraining sixty-five named defendants and all others from interfering with the operation of its mines. This injunction was secured in the Federal Court because of the fact that the mine was controlled by a West Virginia corporation (with $100 capital stock). The injunction was made permanent on May 15 by Judge Youmans.

"A short time later five deputy United States marshals were sent to guard the mines, but were withdrawn a few days later when private guards hired by Bache-Denman were placed about the mine and laborers imported from other states.

"Early in July the proprietor of a booze joint was notified that his union neighbors would no longer stand for his supplying the guards with liquor. When the guards were refused their accustomed drinks they became enraged and fired into the house of the joint keeper. That night it was reported that the guards returned and shot up the town. Whether this is true or not investigation has not yet decided, but it is true that there was lots of shooting and that the majority of citizens there believed it was the guards and non-union men who did the work. The women and children fled in fright to Hartford, where they sought protection. Wild rumors that the 'scabs' were coming to burn up both Prairie Creek and Hartford were circulated and public sentiment was wrought up to the highest pitch of excitement. The
4751 shooting again occurred and on July 17 a large body of men armed with anything they could find, from a pick axe and air rifle up to the best high powered gun marched to the mine and after chasing away the guards proceeded to destroy all the property belonging to the company. It was during this trouble, which lasted three days, that James

Sylessberry and John Baskin, non-union men, are alleged to have been captured, killed and burned. The property loss incurred by the company is figured at close to $500,000.00.

"Following this occurrence the company took advantage of the bankruptcy laws and Franklin Bache was appointed receiver. Late in October a small force of employees under the protection of two deputy marshals was sent to work at some small surface mines owned by the company. These men were in turn run off by a body of probably twenty-five unknown men on October 28.

"On October 31 Marshal Black was in Hartford all day and made several arrests. He was in the depot with his prisoners when some half dozen drunks learned of the matter and decided to take the prisoners away from the officer. This was done and the report of a mob of masked men grew out of the fact that one poor fellow with no more sense than to join in the game, still retained enough sense to desire to remain incognito and put on a mask.

"The action of the drunken men is strongly condemned by all citizens, but it is only one of the natural results of too much bad booze in the town. In regard to the traveling man who is reported to have been beaten and stabbed (well, he probably doesn't want his house to know) but the truth of the matter is he was in a blind tiger and participated in the usual drunken row.

"These booze joints are safe places for respectable
4752 persons to stay away from and it is a serious blot on the fair name of Hartford that they are allowed to exist. More than all other causes combined they are responsible for the lawless acts that have been committed.

"It is lamentably true that a great many members of the Miners' union are habitues of these breeding places of vice and when a fellow seeking notoriety gets a few drinks of 'rot-gut' whiskey he is apt to try most anything. But these men do not represent the miners' organization any more than they represent the citizenship of Hartford and Prairie Creek. The majority of miners as well as the majority of the citizens outside of the organization are a peaceable, God-fearing, industrious people, who for two long have stood the approbium engendered by the acts of a few lawless characters who can always find a following among the foolish and unthinking. All fair-minded citizens will rejoice to see the guilty brought to justice and await with interest the results of investigations, firm in their faith that the right will ulti-

mately prevail and that when a fair hearing is given that the miners' organization as well as the law-abiding citizen without its ranks will no longer be called upon to bear the stigma of disgrace brought upon the community by the action of an undesirable minority.

"Sunday's daily papers gave out information regarding an immense mass meeting that was supposedly held at Hartford Saturday night and makes mention of 'great bodies of men' seen going toward Hartford. Possibly to the editors of papers in a quiet little burg like Fort Smith, where there's never anything doing, it may have appeared like a mass meeting, but it was only the usual Saturday night crowd in Hartford. It just won't do for those reporters to come to Hartford on pay-day night—they'd think the entire European army had gathered here.—Hartford Observer."

4753 35. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence an editorial in the United Mine Workers Journal of December 3, 1914, as follows:

"Resistance to Lawlessness a Duty.

"The situation in the Prairie Creek district of Arkansas is the logical sequence of the program that is being carried on by the employers of labor all over the country who happen to have disputes with their employes; we mean the program of importing bad men as soon as any signs of trouble become manifest; to encourage such hired thugs to commit overt acts against the workers on strike, or whom, as in the case in point, they have locked out.

"It appears as if all of our institutions for the enforcement of law have proven inadequate, have completely broken down when attempts are made to handle these private armies of the employing classes. Outrages have been committed by them, openly, and to the knowledge of the supposed officers of the law, so far, we have not heard of an instance where either they, or any of their employers, have been handled by the law.

"We have the record of a federal grand jury, reporting that men in the employ of, and responsible only to the operators of Colorado, even prior to the strike, absolutely controlled the camps around the coal mines; administered and enforced the will of the operators, or local managers in lieu of, and often in open defiance of the law.

"We need not mention here the outrages committed by these hired bands of murders during the strikes in Colorado and in West Virginia. The miners all over the land have heard, and in our opinion have determined that if, as
4754 seems evident, there is no law in this land to protect them from the depredations of the hired gunmen, then it is their sacred duty to themselves, to their families, and finally to their country, to resist this usurpation, by force, of the powers of government; the subversion of all government to the will of those who are able to hire such force.

"With the lessons of Holly Grove, Ludlow, the Calumet outrage, where seventy-two innocent children attending a Christmas tree entertainment were intentionally murdered, in order that terror might be driven into the hearts of their fathers who were on strike, before them, the men of Arkansas saw the same lawless force ready, at the command of the operators who sought to destroy their organization, and in defense of the free institutions of their state and country all classes of the citizens of the Hartford Valley joined hands to drive out the Hessian army, that experience had taught them held themselves above all laws; and whose assumption of being above law seems to be justified by the fact that, so far, neither state nor federal government have taken steps to curb, or to punish.

"We deplore violence, but we have no words of condemnation for men who join together to resist lawless and unchecked force."

36. The court erred in permitting the plaintiffs to introduce in evidence over the objections of defendants an article from the Mine Workers Journal of November 26, 1914, as follows:

"26 Miners Indicted

"Some Frivilous Charges.

"(Special to Mine Workers' Journal.)

Ft. Smith, Ark., Nov. 20.

4755 "The most unnecessary Federal Grand Jury ever assembled by a Federal Judge to probe disturbances of a stricken community today returned twenty-six indictments against members of the United Mine Workers. The following were indicted under the blanket indictment: P. R. Stewart, former president of District 21; Fred W. Holt, former secretary of District 21; James McNamara, former member of the City Council, Hartford, Ark.; James Slankard, resigned con-

stable of Hartford township; Sandy Robinson, Charles Robinson, Bee Trout, Valentin Burrillo, John Manick, Moro Colo, Wm. Reed, Michael Ryan, Foster Bean, Charley Robinson, Charles M. Blackburn, Bruce Jordan, Marvin Ray, Ernest Nein, James Z. Crossley, Frany Crossley, Marvin Stanfield, Wm. W. Roberts, John Champion, Dave Branch, Jesse Edwards and Clint Burris.

"The indicted men are charged with conspiracy. Some of the 'overt acts' set out in the indictment are interesting. The fourth count follows:

"'Said Moro Colo (otherwise called Morro Collo) and Foster Bean (otherwise called Foster Beam) on May 16, 1914, at Prairie Creek, aforesaid threw stones at certain employes of said Mammoth Vein Coal Company, to-wit: Charles Cheek, Earl Muntz, Will Bohanon and Levi Brown.'"

"The idea of a special grand jury of the United States Court being necessary to determine the damage done by a 'pebble thrower', in what is said to be by the judge of the court a serious conflict between capital and labor. Never before in the history of the Nation has the same smallness in scope of proceedure been equalled.

"The fifth count in the indictment is doubtless one of the most serious charges that was ever embraced in any indictment. It follows:

4756 "'Said Sandy Robinson (otherwise known as Sandy Robertson), Moro Collo and Charles Johnson, James Slankard and others, on June 10, 1914, at Prairie Creek, aforesaid cut and destroyed a bag of feed belonging to said Mammoth Vein Coal Company.'

"The terrible destruction of a sack of feed is another evidence of the great danger to which the lives of the peaceful citizenship of Hartford valley was daily menaced and made necessary the calling of the special grand jury.

"And now we have the indictment resulting from the fact that Judge Youmans received a threatening letter from some unknown, which the judge said made him ever fearful for his personal safety. The section of the indictment and the letter follows:

"'Said James Z. Crossley, on July 27, 1914, deposited in a railway post office on the Rock Island railroad, for mailing and delivery to the judge of said United States Court for the West-

ern district of Arkansas, a certain letter, to-wit: a letter of the tenor following:

"'July 27, 1914.

"'Judge Youmans:

"'Dear Sir—You know the acts you have decided upon. As a warning friend, we caution you to be more considerate on the administration of your decisions. You are notified to comply with the requirements of your office. If such is not complied with very shortly their's likely to be an unexpected change between your soul and fleshy temple, and you won't know the day, nor time, nor what means such will take place. Still we don't want to act cowardly, but give you a little time to act differently, and at any rate you will have a little time for
4757 future preparation for the place called Heaven. You are weighed in the balance and found wanting. Their's a great change soon to happen.

"'Signed, FOREWARNED.

"'This is a barking dog, and if teased much longer will bite.

"'PRESIDENT OF COMMITTEE.'

"Such were the findings of a special grand jury of the Federal court, impaneled by Judge Youmans to probe the recent mining troubles in Arkansas.

"All of the men indicted will surrender and make bond."

37. The court erred in permitting the plaintiffs to introduce in evidence over the objections of the defendants, an article in the Mine Workers Journal of November 26, 1914, as follows:

"Causes That Led Up to Trouble in Arkansas.

(By K. C. Adams.)

Ft. Smith, Ark., Nov. 20.

"The industrial trouble in Arkansas is more than a fight between employes and employer; more than a conflict between a powerful corporation on one side and a powerful union on the other. It is a battle to a finish to see whether the Federal Government will protect unsound business enterprises against the protest of legitimate demands coming from disturbed citizens who have innocently fallen victims to the shortcomings of mismanagement.

"The transportation of non-union employes by Mr. Bache to his Hartford Valley mines evidences the fact that he nor his associates have any intention of observing the law. Armed

with high powered guns and with broken boxes of am-
4758 munition laying in the bottom of wagons, the recruits were conveyed to Prairie Creek. Thus did they mount the chip of defiance on their shoulder and invade the disturbed commuunity which they had previously antagonized.

"When informed that the non-union men carried guns with them, special Prosecutor Hull stated that the 'non-union men had done nothing more than the [xitizenship] had done in carrying guns with them', as all reports reaching him indicated that in most instances the citizens of the Hartford valley were armed with high power rifles. This statement is unfair and untrue.

"It is not now difficult to understand the sympathies of the special prosecutor. Never before in the history of an industrial conflict have the Federal troops been dispatched to protect armed men to defy the innocent citizenship of a community. Never before has a government prosecutor given his approval of such an occurrence.

"For several months, in his endeavor to assume the role of the persecuted to cover his own mistakes as manager of his numerous allied companies, Mr. Bache had a representative in Washington laying the foundation for the sending of Federal troops into Arkansas. But to the surprise of all, a special prosecutor also was sent to inspect this section. Four months from Porto Rico, where he performed detail in the Department of Justice, gave this prosecutor a complete understanding of labor conflicts. When I asked him if the guns carried by the non-union men were 'high powers or shot guns', what do you suppose he said?

"'Why, I know nothing about guns myself.'

"Then I asked him if he was not investigating a conflict in which guns were supposed to be used. He replied that
4759 he was, but that he knew nothing about them. There can be no question but what Mr. Hull is of the opinion that the locked out miners and sympathizers are armed. As an example, the following section of the grand jury:

"'Said Moro Colo (otherwise called Morro Collo) and Foster Bean (otherwise called Foster Beam) on July 16, 1914, at Prairie Creek, aforesaid threw stones at certain employes of said Mammoth Vein Coal Mining Company, to-wit: Charles Cheek, Earl Kuntz, Will Bohanon and Levi Brown.'

"In the next paragraph of the indictment four men are charged with having destroyed or attempted to destroy a sack

of feed. Wonderful work, isn't it? Think of the National government calling out the Federal troops and sending a special prosecutor into Arkansas to determine the real purpose of the pebble throwers and the destruction of a sack of feed.

"It is indeed ridiculous. When the full investigation of Bache vs. The People is revealed to the nation the parties responsible for the coming of the Federal troops will be held up to the Nation's scorn.

"No one can justify the action of Mr. Bache. No sane person would attempt to justify his course. His first move was to force other concerns to take over his property. He outlawed himself from legitimate business activity. His policy has been to rule or ruin. This is the policy that has victimized the National government officials.

"But there is an end to all things. He cannot forever do the things that he has done. He cannot successfully prove that the miners or the citizens are armed to fight him or his hirelings. No representatives of the government can prove this charge.

4760 The fact is that the miners are content to take their chances in a Federal investigation that will go to the bottom of the difficulty, and establish the guilt where the guilty will be punished. If Mr. Bache would ever agree to go into an open, unrestricted hearing, the organization of workingmen who he now seeks to exterminate will cooperate with him in every possible manner. But Bache seeks to shield himself under the cloak of the law."

38. The court erred in permitting the plaintiffs to introduce in evidence over the defendants' objections an article appearing in the Mine Workers Journal of November 26, 1914, as follows:

"Armed Employes Resented in Hartford Valley.

"Ft. Smith, Ark., Nov. 20.

"The arming of the non-union employes with high power rifles and supplying them with a large amount of ammunition when they were sent down into the Hartford valley to begin work at the Bache-Denman mines at Prairie Creek Friday is being strongly protested by officials of the miners' union and the citizens of the Hartford valley.

"In a statement to the Southwest American last night, Roger B. Hull, special assistant to the Attorney General of the United States, who is in charge of the special grand jury investigation of Prairie Creek troubles, said that he considered the arming of the non-union employes an unfortunate incident

and that it was a mistake. Mr. Hull said he did not know the men were armed and that after officials of the government learned of the incident an order was issued for the men to turn over to Major N. F. McClure, in command of the United States Cavalry at Prairie Creek, their guns and ammunition.

"The men employed by Federal Receiver Bache went from Fort Smith to Prairie Creek in wagons. The Federal
4761 guards appointed by the United States Marshal Parker, who was so authorized by Federal Judge Youmans, went to the mining district by railway. The employes were supplied with rifles and boxes of ammunition, which a number of persons declare were broken open in the bed of the wagons. It is said that some of the shells were secured by cavalrymen when the wagons reached the camp.

"Union officials declare that the miners and citizens of the Hartford Valley have no fire arms of any sort, and that sending armed men into the valley was one of the things which started trouble in the first place.

"Emphatic denial is made and exception taken to the alleged statement that there are 3,000 high power rifles in the hands of miners and citizens of the Hartford valley. K. C. Adams, national publicity agent for the United Mine Workers, declares this latest matter will be taken up officially by the union. Adams declares he put the matter up to Mr. Hull and declares that Mr. Hull said that although he had nothing to do with the Receiver's employes, in his opinion the men were justified in taking arms with them when they went to Prairie Creek, as the citizens and miners were armed.

"Mr. Adams declares that Major McClure took the initiative in disarming the employes and taking charge of their guns and ammunition; that Major McClure did so without any official notice from the Federal officials at Fort Smith. 'Mr. Bache, as Federal Receiver, is an officer of the court, acting under the instructions of Judge Youmans, and is responsible to the court,' said Mr. Adams, 'and the officials of the union are waiting to see if this seemingly unauthorized and inflaming action on the part of Bache will be taken cognizance of by the courts.'

"The attention of Judge Youmans was called Saturday
4762 to the fact that squads of employes sent to the valley under the authority of the court receiver, were armed with guns and supplied with ammunition. Judge Youmans said that no such authority had been given the Receiver, and that he was advised that commander McClure has taken possession of the guns and ammunition.

"In issuing the order for operation of the mines in response to the recommendation of Receiver Bache, the court order carried only one presumption of authority for protecting the proposed employes and property. Specifically that power was placed in the United States Marshal, who was empowered to appoint necessary deputies, who, in protecting the Receiver in carying out the court order, were to be assisted by the United States military force, now stationed at the mine camps."

39. The court erred in permitting the plaintiffs to introduce in evidence over the defendants' objections an article from the Mine Workers Journal of December 3, 1914, as follows:

"Causes Of The Arkansas Trouble

"(By K. C. Adams.)

"Throughout the nation the agitation for a square deal in the investigation of labor conflicts is growing. Everywhere the people are rebuking public officials who dispense uneven justice. The protest against favoritism has crystalized public opinion in defense of the persecuted. Time was when courts and commissions could in the most brazen manner ignore the rights of the workers and convict regardless of evidence members of trade unions who dared protest discrimination. But that day and time has passed. Every attempt during recent years to override the expressed will of the people has met with universal condemnation.

4763 "Just now when the spirit of boosting is enlivening the nation, with commercial organizations on the offensive heralding the advantages of particular locations, Arkansas is forced to retreat to the defensive to remove the shame of a most deplorable industrial conflict. The eyes of the people are withdrawn from Colorado, from Butte, from West Virginia and focused upon the Arkansas troubles. And everywhere the question is being asked, how did it all happen? But how few really know—that it all resulted from the fact that one single promoter, at the head of a dozen interlocking companies simply sought to damn a community in which he had made a huge failure.

"What will the outcome be? How soon will the real parties at fault, be located and punished? And then again how are we to go about the work, in a manner that will eliminate all suspicion of favoritism. These questions present themselves squarely to the thinking citizenship.

"The Federal Grand Jury after several weeks work adjourned, returning thirty-five indictments against miners and sympathizers. The foreman of the jury, Mr. C. E. Speer, is at the head of a large wholesale hardware company. He is also a stockholder in one of the Bache companies. He stated on the 25th, that he had transferred his stock shortly before the first trouble in April, but the fact is that such a transfer has never been recorded. Mr. Speer sold to Mr. Bache the high power guns to equip the guards that terrorized the community and brought about the riots that shamed the state.

"When the newspapers and magazines have carried this story to every section of the nation. When the people are informed of Mr. Speer's connection with Mr. Bache,
4764 and then turn to the findings of the Federal Grand Jury, do you think that they will look with favor upon the indictments returned.

"Everybody is aware that trouble occurred at Prairie Creek. Everybody concedes the fact that the public welfare demands that the machinery of the law be put in operation to detect and punish the offenders. But the advanced trend of thought will not tolerate any possible connection that savors of favoritism.

"And then there is the indictment that was returned against an aged consumptive, who resides 125 miles from the scene of the trouble. Still another against a young man who was at work in the Spadra coal fields and who was not concerned in the affair, but who was indicted simply because he expressed himself while a passenger on a train in favor of organization.

"It is not material to the final result whether Mr. Speer was biased as foreman of the jury. The reflection of his close friendship for Franklin Bache will forever tend to discredit the work of the jury as a whole.

"The world is alive to the doctrine that the best way to boost business is to get at the evil that is retarding business. Likewise the best way to enforce the law is to eliminate the causes that promote lawlessness. The Bache properties, located in the midst of a rich coal field, failed to pay dividends. This fact must not be overlooked as the fundamental evil that resulted in our present day troubles. All the other coal companies doing business in the field were making money and paying dividends while the Bache companies were

failing. If this be true isn't it reasonable to assume that mismanagement on the part of Bache himself placed the companies of which he was the active head in bankruptcy.
4765 Thus it is very plain that the management was the fundamental evil and the thing that should have been remedied.

"Bache sought to cure his industrial ills with his own remedy. That remedy consisted of a program whereby he hoped to pay less wages, extract more work from his employes and get along with a few safety devices in his mines. The community simply resented the attempt of Bache to lower the standard of working conditions. It was a home rule protest for the maintenance of a set standard of living and working conditions. Then there was the character of the men he sought to employ. There was nothing surprising in this protest. Who ever heard of a community welcoming a band of ex-convicts to come and live among them.

"The records of the Bache guards disclosed such indentity and is consequently undisputable proof that the protest was warranted. J. L. Prince, guard, served time in the Arkansas penitentiary for shooting a man in the back at Ozark. He has been in jail many times for minor offenses.

"Dan DeSantis, another guard, served time in the Federal penitentiary, having been sentenced by Judge Youmans himself. Riley Bailey, also guard has for years been busy rounding out a notorious record of crime. He was one of a gang that beat into insensibility former President Stewart of the mine wrokers in the darkness of the night near Jimtown, Ark.

"Why did Bache import this type of men? In the testimony offered in the Federal Court, on the occasion of the application of Bache for an injunction, the following extract from a letter written by O. T. Looper to his wife, he was then in the employ of a Bache, was read into the record:

"We have accomplished what we intended from the beginning, you see for yourself by reading the papers. You
4766 see the restraining order from the Federal Court.'

"Questioned, Looper stated that the letter meant just what it said. This being true it is very evident that Bache planned trouble in order to hide his own mistakes and then seek shelter under the protection of the Federal Court.

"Bache was the first to violate the law by supplying his employes with guns. He refused to take part in the legal

investigation that was conducted by Commissioner Clary. This hearing proved beyond doubt that Bache in arming his guards promised them immunity from the law. Evidence was also produced that proved Bache's lack of understanding of mining conditions.

"For seven months Bache has continued his defiant policy. Honest workingmen, capable and industrious who stinted themselves for years that they might boast the ownership of a home, have been forced into idleness. Families have braved the disasterous period on half rations and made old clothes do.

"A happy and prosperous little valley has been transformed into war like territory with depressed business and the spirit of unrest as the determined citizens grew more determined to sacrifice their all that the cause of square dealing would triumph.

"The yellow tents of Uncle Sam now decorate the hillside of the mining property at a great expense to the government as protection to two pidgeon hole mines that in the aggregate will not produce 100 tons of coal per day.

"But the presence of troops will not settle the difficulty. They will not remove the shame that stains the name of Arkansas as result of the manipulations of this man Bache. There is only one way for the people to readjust the
4767 industrial differences and that is to see to it that this man Bache is defeated in his attempt to hide his own short comings under the clock of the law and the so-called hot heads will silence their protest.

"One-sided investigations will not, however, accomplish this result. Evidence furnished solely from fanatical partisans, unreliable individuals or persons representing cliques will not cover the hidden connections. The time has arrived in the growing complications surrounding the present conflict when it is absolutely necessary to safeguard every agency of the law above suspicion.

"Corporations that persist in violating the law pertaining to the governing the operation of their industry should be made to suffer to the same degree that the individual who loses control of himself in the battle of self-preservation and commits an over act. The fact that Mr. Bache is receiver should not make him immune from punishment.

"Until a thorough and impartial probe is had and the people are acquainted with the hidden complications the citizenship cannot hope for permanent peace.

"It is impossible to choke the facts. The people demand and are entitled to know."

40. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence an article from the Mine Workers Journal of April 15, 1915, as follows:

"Ludlow And Arkansas.

"In memory of Ludlow, let us once more pledge ourselves to use our every influence to make a repetition of such horrors impossible.

4768 "Ludlow was the direct result of the government, local as well as state, in the hands of the corporation. Ludlow points the necessity of closer political affiliation of the workers on some broad basis upon which we can all stand.

"We cannot close our eyes to the fact that today we have absolutely no assurance against repetitions of the horrors of Ludlow in the next confiict of any magnitude between the employers of labor and the workers; that is, so far as the restraining power of the government, state or nations, procides.

"We cannot but recognize the fact that when the workers of Arkansas took steps to protect themselves and their families from like fate as befell the victims of murderous greed at Ludlow, recognizing that there was no power of government, state or national, that would grant them such protection, that then the power of the United States government was invoked to punish these miners for so protecting themselves and their loved ones.

"Think of it! Not one of the friends who took part in the debauch of murder and arson at Ludlow has ever been brought to trial; state or nation cannot bring to justice these known murderers around whom the great corporations have thrown their protecting arms, while the miners of Arkansas who could see a like fate awaiting them and their loved ones if they remained inactive are made to pay the penalty in prison for long periods of years.

"The federal government confessed itself helpless to protect the iron workers from the sluggers, the thug tactics of the employing corporations, but when the workers were forced to retaliate in kind the prison yawned for them even before their trials were concluded, the verdict rendered.

4769 "The answer is that we must strengthen our lines on the economic field, larger organizations, closer affilia-

tions between organizations; a political program on which we can all unite, all the workers, and take our part in the political governments of state and nation.

"That is the lesson that is forced upon us by comparing Ludlow and Arkansas."

41. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence an article from the Mine Workers Journal of October 14, 1915, as follows:

"Affairs of District No. 21 are turned over to International Organization by Special Convention. President White Appoints Temporary Officers Pending Election.

(By K. C. Adams.)

"McAlester, Okla., Oct. 8.

"The committee informed the representatives of President White that each of the names submitted had agreed to serve harmoniously together in the conduct of the organization's business, and that not one of them named would under any circumstances become a candidate for office in the election which, under the convention's orders, must be held not later than forty-five days after the convention's adjournment.

* * * * "Board Members—P. R. Stewart, Arkansas; Ed. Cunningham, Texas; Ira Decker, Oklahoma, and Thomas Sexton, Arkansas."

42. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence an article from the Mine Workers Journal of October 7, 1915, as follows:

"President White Decides.

Alex Howat Of Kansas Cannot Be Candidate For Office Until Charges Are Cleared.

4770 Miners of Entire Country Interested. No suspicion of Graft Taint Can be Tolerated in Officials.

"The following letter of instruction and information has been sent by International President John P. White to the President of District No. 14, Kansas, Bernard Harrigan, and to the members of the District No. 14 Executive Board. Copies have been sent to all the locals in that district.

'Albia, Iowa, Sept. 27.

"Mr. Bernard Harrigan, President District
No. 14. U. M. W. of A., Pittsburg, Kan:

Dear Sir and Brothers—I beg to acknowledge receipt of your telegram demanding interpretation of the following resolution that was unanimously adopted by the International Executive Board:

'That this Board confer upon President White and his assistant resident officials, power to act in behalf of the Board in connection with this matter in Kansas, so that the honor and integrity of the United Mine Workers of America, and of its officials, will be maintained.'

"I might say that it was brought to our attention that an attempt was being made to have Alex Howatt become a candidate for president of District No. 14, and in order that the honor and integrity of our movement would be preserved, power was delegated to the resident officers by the International Executive Board to deal with this situation and to take such action as would best protect our movement.

"Alex Howatt resigned his position rather than face his accusers. He refused to obey the directions of the International Executive Board and enter suit against his alleged defamers. He has failed to comply with the instructions
4771 of the special convention of District No. 14, which ordered him to go to court, and the fact that he resigned his office and further refused to go to court, notwithstanding the International organization placed at his disposal ample funds, and the best legal talent, he has by subterfuge and evasion failed to conform to the directions of either the International Executive Board or the convention of District No. 14. Howat's resignation, as well as his refusal to go to court, is significant, and anyone can place their interpretation upon his actions in these two particular instances.

"The United Mine Workers of America have a right to expect the mine workers of Kansas to protect the honor and integrity of our great organization and Alex Howat's name should not be permitted to be placed on any election ballot in District No. 14 until he has complied with the instructions of the International Executive Board and the instructions of the Kansas convention.

"I therefore hold that you are fully justified, if Howat should attempt to become a candidate, to prevent his name from appearing on your ballot. You are not only justified,

but it is your duty as an Executive Board to see that he will face these charges in the manner and way that he has been directed to do so, and until he does so he should, by every moral obligation, forfeit the confidence of the miners of District No. 14.

"In making this decision I am fully conscious of the responsibility attached to my ruling, but I stand ready and willing to come to Kansas and bring attorney Kendall and meet Alex Howat and the miners of Kansas and explain in detail the course I have [persued]. In addition to this I shall have to answer to the mine workers' convention for
4772 all of my official acts, which I will cheerfully do, and I shall insist that our International convention make an exhaustive investigation into these graft charges and if possible bring all parties into court if I can before the statute of limitation expires.

"Copy of this circular is being sent to the local unions in District 14 in order that they may be fully informed of the course I have advised.

Yours very truly,

JOHN P. WHITE, President."

43. The court erred in permitting the plaintiffs over the objections of the defendants, to introduce in evidence the following article from the Mine Workers Journal of November 10, 1910:

"Labor organizations are just the business institutions of organized labor. If they are run successfully, and conducted on business methods, the balance is always on the right side of the ledger for the members. If the business is loosely managed, strikes ordered except when necessary, then the balance on the books either becomes slim or it disappears altogether. Working men should not forget that ther organization is a business institution from which they expect to get dollar for dollar, with interest, for every dollar they pay into it."

44. The court erred in permitting the plaintiffs over the objections of defendants, to introduce in evidence the following article from the Mine Workers Journal of July 22, 1909, as follows:

"It is because so many have refused or neglected to become members of our corporation that our profits are not so large as they should be, and it is those on the outside who

sell their labor individually that they keep down our,
4773 and their profit.

"The miners' organization is a purely business proposition, and the profits coming from it will never be so large as they should be until every coal miner has become a member and is selling his labor collectively and has quit the foolishness of attempting to do impossibilities by holding aloof and selling it individually."

45. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence an article from the Mine Workers Journal of July 27, 1911, as follows:

"Official Notice.

Indianapolis, Ind., July 25, 1911.

To whom it May Concern—Greeting:

Pursuant to action of our International Executive Board at a meeting held in this city on June 26 to July 1, the President hereby revokes the charters of the following local unions; 96 West Newton, Pa.; 260, Moon Run, Pa.; 266, Venetia, Pa; 410 Yohonghany, Pa.; 524 Carnegie, Pa; 547, Reissing, Pa; 725, Cliff Mines, Pa; 777 S. Brownsville, Pa; 873, Broughton, Pa; 970 Avella, Pa; 1015, McDonald, Pa; 1046, Tyre, Pa; 1188 Kaylor, Pa; 1240, Presto, Pa; 1346 Broughton, Pa; 1372, Shire Oaks, Pa; 1447, W. Brownville, Pa; 1712 Rodfield, Pa.; 1809 Willock, Pa; 1891 Epton, Pa; 1898 Imperial, Pa; 1917 Bridgeville, Pa; 2107 Avella, Pa; 2146, Loupnex, Pa; 2500 Large, Pa.

The above local unions have failed to comply with the previous instructions of the board, authorizing them to pay tax and assessment to Timothy Donovan, Secretary-Treasurer of District No. 5, Pennsylvania.

All local unions in District No. 5 are hereby cautioned against accepting transfer cards issued by said local
4774 unions. For a number of months the local unions in question have been in open rebellion against the authority of the International organization as well as the authority of the regular District organization, hence it becomes imperative, in order to enforce discipline and preserve the integrity of the organization, that such flagrant violations of our laws should not be permitted and the guilty parties allowed to go unpunished.

The so-called District No. 5 organization, of which Robert Gibbons is president, was not chartered by the authority of

the International Executive Board and is not recognized by our organization and consequently has no standing, and any and every act of said organization is illegal, a usurpation of power and a violation of the fundamental principles of our union.

From the inception of the controversy in the Pittsburg District every opportunity has been given the Gibbons faction to present their grievances in the courts of the organization, which they have failed to do, but were disposed to bring about a more chaotic state of affairs by resorting to the civil courts to redress their wrongs, whether real or imaginary.

The joint contract relations between the Operators' Association and our organization are only recognized through the regular District No. 5 organization, of which Francis Feehan is president and Timothy Donovan is Secretary-treasurer.

All local unions affiliated with the regular District No. 5 organization and the International Union will govern themselves accordingly.

JOHN P. WHITE,
President.

FRANK J. HAYES,
Vice President.

EDWIN PERRY,
(Seal) Secretary- Treasurer."

46. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence from the printed report of the proceedings of the Miners' Con-
4775 vention of 1902, a resolution introduced in said convention as follows:

Resolution No. 33.

Whereas, The miners of Virginia and Kentucky in the past have been a detriment to the organization in other States by their not being organized; therefore, be it

Resolved, That our National organization shall use its power in all forms to bring these miners into the organization.

Passed by Sub-District 1 of District 12, and endorsed by all the Locals in said Sub-District.

ALFRED S. PENN, Local 874.

The Committee recommends that this resolution be referred to the National Executive Board.

On motion the report of the Committee was concurred in."

47. The court erred in permitting the plaintiffs over the objections of the defendants to introduce in evidence from the printed volume of the proceedings of the Miners Convention of 1902, the following "report of Special Committee on Organization.

Indianapolis, Ind. Jan. 28, 1902.

Officers and Members of the Thirteenth Annual Convention,
United Mine Workers of America:

Gentlemen: We, your Special Committee, appointed to formulate a policy which would culminate in a complete organization of all the competitive fields, are fully convinced that the two Virginias have been a menace to the perfection of our organization.

Therefore we recommend that the National Executive Board pursue the most aggressive policy that they, in conjunction with the several District Presidents, can pursue to bring about organization in the different Districts, not only in Virginia but in all other districts.

We also recommend that the National Executive Board
4776 be empowered to employ organizers of different Nationalities to help National and District Officers in this work.

We further recommend that in case of a strike in any District of the employes of any company who operate mines in competitive or other Districts that the National Executive Board be empowered to order a suspension of work in said mines in support of strike in said District, if, in their judgment, it is deemed advisable. John Vasey, J. D. Wood, J. A. Springer, Patrick Gilady, Wm. Little, Joseph Pendleton, Committee.

On motion the report was adopted by a unanimous vote of the convention and the committee discharged."

48. The court erred in permitting the plaintiffs over the objections of defendants, to introduce in evidence from the printed volume of the proceedings of the Miners' Convention of 1907, a statement of Delegate Green in said Convention as follows:

"Now, something must be done; it is absolutely necessary to protect us against the competition that comes from the

unorganized fields east of us. I believe a National movement would have induced West Virginia to become organized, and that, like other districts, in 1897, it would have meant the organizing of that field. That would have brought us the protection we so richly deserve, and that is so absolutely necessary for us to have."

49. The court erred in permitting the plaintiffs over the defendants' objections to introduce in evidence from the same printed volume a statement in debate made by Delegate Feehan, as follows: "The 30,000 organized miners in District No. 5 have as neighbors thousands upon thousands of unorganized miners in the Irwin field and the Connellsville region who are a constant menace to our organization."

4777 50. The court erred in permitting the plaintiffs over the defendants' objections to introduce in evidence from the printed volume of the proceedings of the Miners Convention of 1909, the following extract from the statement of Delegate Green, in debate, as follows:

"Yet I feel sure that there is need of inaugurating a great movement, a special movement, to extend our organization into the unorganized fields covered by this resolution, as well as into the unorganized districts of West Virginia. This is particularly important to Ohio because of the peculiar position she occupies between the unorganized districts of Pennsylvania and West Virginia on the south and east. We feel very keenly the effects of the unorganized conditions there."

51. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence from the same volume the statement of Delegate Hagerty in debate, as follows:

"Central Pennsylvania last year passed a resolution asking that International organizers be appointed and placed in the adjoining fields that are in direct competition with us and are threatening our homes and moving in the direction of the organized fields. That request was denied by the International Executive Board and by President Lewis. I want to say in support of President Feehan's resolution that it ought to go farther. There are a hundred thousand men in the bituminous mines of Pennsylvania that are not allied with this movement. There are, Mr. Chairman, in the neighborhood of fifty thousand miners in District 17 that are on the outside of this movement east of the Ohio river. The great bulk of the coal mined by these mines comes in direct

competition with the fields of Central Pennsylvania.
4778 This resolution is an important one. Take the Fairmount Field of West Virginia, and there is not a single, solitary local union, with the exception of one small one located at Cannelton in that field. There is not a single, solitary local union in the Meyersdale field, there is not an organization existing anywhere in the part of Pennsylvania that surrounds the Central district. Those fields are in direct competition with us. The money of this organization should be spent in the non-union districts in order to protect the districts where an organization has been established and wage contracts made. Why is it that there are over seventy International organizers, and yet few of them working in the non-union districts, but are stationed, and have been for the past year, in such fields as Central Pennsylvania?"

52. The court erred in permitting the plaintiffs over defendants objections to introduce in evidence from the same exhibit a portion of the speech by Delegate Farley in debate, as follows:

"I want the delegates here to take home to their different locals this statement, and I want when these proceedings are printed that they be read in the local unions, so the men all over the United States will understand the problem that confronts this body in trying to organize the miners in a Southern State. Something will have to be done in Alabama sooner or later if Kentucky and Tennessee are to be protected, because if Alabama goes down so will all the States south of the Ohio River."

53. The court erred in permitting the plaintiffs over the defendants' objections to introduce in evidence from the printed volume of proceedings of Miners' Convention for
4779 1914, an extract thereof showing the introduction and adoption of the following resolution:

"Organizing Hopkins County, Kentucky.

"Indianapolis, Ind., January 24, 1914.

"To the officers and delegates of the Twenty-fourth Consecutive and First Biennial Convention, U. M. W. of A.:

"Whereas, the members of our union, District 23, Southwestern Kentucky, being in direct competition with non-union fields, Hopkins and adjoining counties, and who have had a bitter struggle for fifteen years to maintain and keep our organization in District No. 23; therefore, be it

"Resolved, that the International Convention now assembled assist us in organizing Hopkins and adjoining counties, both morally and financially, at the earliest possible date.

"L. B. WALKER, President.

"J. A. SWEENEY, L. U. No. 2783,
Nelson, Ky.

"LONNIE JACKSON,
L. U. No. 1152, Baskett, Ky.

"C. K. WATKINS,
L. U. Nos. 645 and 1136, Island, Ky.

"OSCAR MOONEY,
L. U. No. 2870, Drakesboro, Ky.

"The resolution was adopted by unanimous vote."

54. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence from the printed volume of proceedings of the Annual Convention of United Mine Workers of America for 1916, the following extracts from said volume:

"Auditor Donaldson, for the Committee, stated that printed copies of the credential list would be distributed to the delegates, and stated that since the report had been sent to the printer the seat of John Chance, Local No. 732, District
4780 12, and Robert Bolden, Local 3003, District 15, had been contested. These names appeared in the list but the Committee did not recommend their seating. The Committee stated that the cases would be taken up later and reported to the convention.

"Auditor Donaldson, for the Committee on Credentials read a list of delegates whose credentials had arrived during the week and recommended that they be seated and the names added to the completed list. The recommendation of the Committee was concurred in."

"Donaldson. This completes our report. The list now includes all changes, transfers and all the contested delegates. Upon motion the report of the Committee as a whole was adopted. Following is the complete report of the Committee on Credentials."

"No. 2110. Camp Beulah, Ark.: P. R. Stewart, Ft. Smith, Arkansas, one vote".

"Report of Officers. Vice-President Hayes in the Chair.
Report of President White.

"To the Officers and Delegates of the Twenty-fifth Consecutive and Second Biennial Convention of the United Mine Workers of America—Greeting:

"Following a time honored custom, as President of the International Union, I submit a resume of the affairs of our organization, together with the chief matters that have occurred during the biennial period now drawing to a close."

"Litigation.

"This administration has been confronted with almost every conceivable form of opposition by the enemies of our movement. We have been engaged in litigation and our people have been subjected to the worst form of persecution at the incitation of the coal companies and their emissaries in
4781 the various non-union sections of the country.

"During the trouble in Arkansas a number of our members and representatives were indicted in the Federal Court and some were fined and imprisoned.

"Thus it will be seen by the attempts set forth in these proceedings that our enemies have been doing all in their power to menace the progress of our organization. Numerous other cases of injunction and litigation have been encountered in defending our people from persecution and in protecting the organization's financial resources, but we will press, vigorously opposing under all circumstances any attempt to throttle organization by such illegal methods. We will fight to the utmost at all times to defend our persecuted fellow workers who are the innocent victims of powerful interests which would destroy the right of the men or labor to organize and enjoy the benefits thereof."

55. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence from the proceedings of the Miners' Annual Convention of 1916, the following extracts:

"Report of Committee on Officers' Reports.

"Delegate Morgan, Secretary of the Committee, reported as follows:

"Litigation.

"Satisfactory settlements of important litigation against the organization seem to indicate that legal impediments to our

progress are slowly giving way and we approve of the action of the organization in its continued fight to have our rights emphasized and recommend approval of this attitude until our rights are amply protected.

"The report of the Committee was adopted unanimously."

56. The court erred in permitting the plaintiffs over
4782 the objections of the defendants to introduce in evidence extracts from the proceedings of the Special Convention of the United Mine Workers of America, District 21, in September 1915, as follows:

"President Hanraty: The next order of business is the report of officers. (Reading):

"To the officers and delegates to the special convention of District 21, United Mine Workers of America—Greetings:

"Prairie Creek Strike.

"Shortly after the first of April I met R. W. McFarlane of Greenwood, Arkansas, one of the attorneys for the miners who claims we still owe him $2,500.00 and wanted the money as soon as possible as he claims he did a great deal of the work. In talking over the strike and the lawsuits that followed by a number of parties, statements were made by them that led me to believe that some of them at least should be investigated. I went over the records of our office, but I could find no reports about how much money was spent and how it was spent nor who spent, as there were no receipts except one I received from Ed Cunningham while he was acting president, which reads as follows:

" "Ft. Smith, Ark., Nov. 8, 1914.

Received of Ed Cunningham, certified check for $4,000.00 payable to bearer, which check I have cashed and deposited in bank to be held as securing me for making bail bonds for Clint Burris and John Manick, in the sum of $2,000.00 each.

(Signed) BEN CRAVENS." "

4783 "I waited on attorney Ben Cravens to find out what was done with the money and he informed me check was deposited in the City National Bank, Nov. 9th. On Nov. 23, 1914, the check was turned over to Webb Covington, our attorney.

"In regard to the $50,000.00 that was borrowed from Dist. 12, Springfield, Ill., for the purpose of helping buy the Prairie Creek property, I desire to state that I believe an investiga-

tion should be made by a joint committee of the district and our international organization, and a report made to show the whole transaction and why the property was not bought.

"Delegate Howard: Being one of the men from Prairie Creek I am in favor, highly in favor, of that man being allowed to come up and make a statement. I would hate to go back to my home and have people ask me why this man Covington was not allowed to kind of clear this thing up before this convention. Every delegate is in this convention is here to learn the facts. We don't want anything but the facts. I am not allied with any faction or anything, but I am here to see justice meted out where justice is due. We want the facts and no untold affairs here. The committee brought in no recommendation here, and it is up to this convention to say what shall be done in this matter, and I am in favor of that man coming on this floor and making a statement. There are a few of us people around Prairie Creek that have been branded as anarchists. My name has been heralded all over the country as an anarchist, and an undesirable citizen. It has been handed to the public until my own class, my own fellow workmen, have branded me the same way, and I am in favor of this thing being cleared up. (Applause).

"Board Member McLaughlin: I was one of that old Board, and in Hartford during the entire trouble.

4784 "National Organizer Dalrymple: I am not a delegate, but I was a former officer in District 21 for four years.

"Chairman Thurston: You are not a delegate?

"National Organizer Dalrymple: No, sir, but I was a former officer here for four years.

"Chairman Thurston: We want to hear from the delegates.

"National Organizer Dalrymple: I want to ask the convention if they will permit me to make a statement or two.

"Chairman Thurston: I rule you are out of order.

"National Organizer Dalrymple: You are going to rule that I am out of order.

"Delegate Doyle: I move you that the floor be granted to National Organizer Dalrymple.

"The motion was duly seconded.

"Chairman Thurston: There is a motion before the house, Brother Doyle.

"Delegate Stewart: I rise to a point of order on that ruling. All national officers are allowed a voice.

"Chairman Thurston: I want to hear from the delegation from this District, then if the delegation has nothing further to say, then we will hear anybody else.

"Delegate Stewart: But he was a member of the old Executive Board, and is a National Organizer, and whenever an International President sends officers to a convention, they are allowed a voice. There are some National Board Members here, and I want to know if I am correct in that.

"International Board Member Frampton: As far as I know, a National representative has never been refused the floor of any convention of United Mine Workers.

"Chairman Thurston: I will [retrace] my ruling.

4785 "Mr. Covington: * * * * I now speak to the members of the old board. Did you fellows tell me to do what I did in the Prairie Creek district?

"Delegate Stewart: I, for one, said go ahead, we will protect the members of our organization that got into trouble in the Hartford Valley, to the last ditch.

"Delegate Cunningham: That was with the full consent of the board.

"Board Member McLaughlin: Yes, sir, we told you to go ahead and we would stay with you.

"National Organizer Dalrymple: Yes, sir, that is right."

57. The court erred in permitting the plaintiffs over the objections of defendants to read from the volume containing the proceedings of the Special Convention heretofore referred to in the last assignment, as follows:

"Delegate Plymale: Mr. Chairman and Brothers: I will state before reading this that a portion of this resolution was covered in substance by a resolution passed a few days ago, with reference to the telegram received from Brother McNamara. I want to make that statement before reading this, so that we will not get confused. (Reading):

"To the officers and Delegates of the Special Convention:

"We the undersigned submit for your consideration the following bills that were contracted and paid by Local Unions No. 156 and No. 1912, located at Hartford, Ark.:

"Same being contracted in connection with the trouble that arose at Prairie Creek, Ark., and of which bills read as follows:

"Hartford, Ark., Sept. 20, 1915.

"District No. 21, U. M. W. of A. to John Conroy, Dr.

4786 "To Railroad fare to Kansas City and return, $20.00

To Street car fare from Kansas City to Leavenworth and return, including hotel bills, etc. 10.00

To four days' services at $3.90 per day, 15.60

Total, $45.60

This bill is for services in connection with the presentation of petitions for the parole of James McNamara, now confined in the Federal Prison at Leavenworth, Kan., on a charge of conspiracy, in connection with the Prairie Creek trouble.

(Signed) JOHN CONROY."

"Expenses incurred by Oscar Layton and James McNamara as a Committeee elected by Local Union No. 1526, to see Judge Little in connection with James K. McNamara parole.

One days, Oscar Layton,	$3.90
Transportation and hotel expenses,	3.35
One day, James McNamara, Sr.	3.90
Transportation and hotel expenses,	3.35
Total,	$14.50

(Signed) OSCAR LAYTON."

"P. R. Stewart.

September.

Date	Salary			
9th	$3.90	Railroad fare one trip, return Fort Smith to Hartford and Kansas City return,		$20.00
10th	3.90	Two return trips,		
11th	3.90	Kansas City to Leavenworth,		
12th		Hotel Bills, four days,		10.00
13th	3.90	Fort Smith, Little Rock	4.77	2.00
14th	3.90	Little Rock, Fort Smith,	4.77	2.00
		Total expenses,		$65.04

4787 Note: This bill is for services with getting petitions and presenting them to the proper Board in trying to get Jim McNamara out of the Leavenworth pen, who was given two years in connection with the Prairie Creek trouble.

The Locals in Hartford borrowed one hundred ($100.00) dollars to help to get this brother out of Leavenworth.

Yours truly,

(Signed) P. R. Stewart."

The foregoing bills make it plain that they are bona fide claims and made in the interest of those who are members of our organization, while they cannot at this time raise their voice in behalf of themselves, and therefore, the above mentioned locals made it possible for their appeal for executive clemency to reach those in authority to grant same.

Therefore, Be it Resolved, That this convention authorize the payment of said bills hereinbefore mentioned by reimbursing said Local Union for same.

H. C JONES L. U. No. 197.
JONATHAN FOSTER, L. U. No. 2889
ARTHUR CROSS,
MAT BAYLIN, L. U. 1136."

Concurred in by the Committee.

Delegate Hobbs: I move we adopt the report of the committee.

The motion was duly second.

Chairman Thurston: It has been regularly moved and seconded that the commmittee's report be adopted. Is there any discussion? All in favor of the motion let it be known by saying aye; contrary, no. The motion is carried."

58. The court erred in permitting the plaintiffs over the objections of defendants to introduce in eivdence from
4788 the Convention proceedings referred to in the last assignment, the following extracts:

"Delegate McSpadden: The committee that was appointed yesterday evening, we your committee to whom was referred the cases of Fred W. Holt, John Manik, Oscas Layton, John Champion, James Slankard, Bill Reed, Dave Branch, James McNamara, Sandy Robertson and Clint Burris, who have served or as now serving terms in jail, we recommend, owing to the financial condition of the District, that the claims

of compensation be denied. D. G. McSpadden, James Aubrey, concurring; Nat Rossetto nonconcurring.

"Chairman Thurston: You have heard the report of your committee.

"Delegate King: I move we accept the report as read.

"The motion was duly seconded.

"Chairman Thurston: You have heard the motion. Is there any discussion.

"Delegate Leonard: I move you that we accept the report as read, the majority report.

"Chairman Thurston: It has been regularly moved and seconded we accept the majority report, and that is to concur in the report.

"Delegate Degnam: Mr. Chairman and brothers: It looks very queer to me how we are going to deny the claim of the brothers that laid in jail for six months. It was threshed out that they were entitled to it. We are complaining about Prairie Creek being exposed here at one time by the speech of our able lawyer, and you put in the records yesterday, putting a man on the pay roll, and you went on record as giving him pay until he gets a job, and he doesn't get it from
4789 the company, and here we have five or six brothers that laid in jail and get nothing at all. I think it is a shame that they don't give these brothers what they are entitled to. If you want to know the whole truth and go that far into it, you can get it all right. Maybe you don't wont to hear it.

"Chairman Thurston: We don't want it.

"Delegate Degnan: I want this convention to pay the brothers' wages while they were in jail, they are entitled to it. They went to jail and suffered six months, I understand, and now they want the little wages that they are entitled to, and we are not treating them fair. I am in favor of those brothers getting what they ask for, their wages, while in jail".

59. The court erred in permitting the plaintiffs over the separate objections of the defendants to introduce in evidence from a printed volume purporting to be a report of the proceedings of the Joint Conference of Coal Operators and Coal Miners of the Central Competitive Field for 1904, the following statement of Mr. Robbins, an operator:

"Mr. Robbins has spoken of reductions in the Myersdale Field of Pennsylvania, and of the proposed reductions in the Fairmount region of West Virginia. I cannot agree that coal is being mined in the Myersdale field for 55 cents a ton. It is true that the operators there are making a rate of 55 cents a ton but it is just as true that the miners are resisting, and they are right. Every year that we have met in these conventions we have heard the statement made that the reason the operators represented here could not comply with the scale of wages proposed with the miners was the fact that they were meeting an unfair competition from the Fairmount District of West Virginia. And now it is said the the
4790 Fairmount operators propose a reduction of 25 cents a ton. Why that is more than the operators told us they got altogether. Why do the operators of the Fairmount District purpose to reduce the rate of mining 25 cents a ton? Why, even, do they talk about it? Is it because of competition from Pittsburgh, Ohio, Indiana or Illinois? Against whom do they sell their coal? In competition with whom is their coal sold? Not with Myersdale. I see that over a million tons of West Virginia coal, a considerable part from the Fairmount Field, went to Chicago last year. Certainly if trade conditions are such that reductions must be made, it is not because they believe that they have no advantage over their competitors in the Pittsburgh District or other parts of this competitive field."

60. The court erred in permitting the plaintiffs over the separate objections of the defendants to introduce in evidence from the volume referred to in the last assignment a statement made in debate in said conference by an operator, W. S. Bogle, as follows:

"Mr. Mitchell belittles West Virginia competition. He has always done so. Outside competition at all times has been belittled. He says the operators have, every time they have held a convention, brought in this West Virginia bugaboo. It is true that we have. Furthermore, circumstances which favored us in the last few years also favored West Virginia. She has not had so much difficulty in marketing her produce as she had when these conventions were first held. For the last four months she has been confronted with a loss of market, with an inability to place her product—not the product of four or five years ago, but a largely increased pro-
duct and already she is knocking at our doors, al-
4791 ready she is coming into our markets and taking contracts for the ensuing year in competition with each

one of the four states in this movement, at prices which it is impossible for us, under our present scale, to meet. It is a reality, gentlemen, it is not a bugaboo; it is not so that we can agree to pay you our present scale and then go back and try to meet the conditions and have our mines lie idle."

61. The court erred in permitting plaintiffs over the separate objections of the defendants to introduce in evidence from the volume referred to in the last assignment of the proceedings of the Joint Conference of 1904, a statement in debate made by an operator H. L. Chapman, as follows:

"If these gentlemen could control the entire products of the mines of this country, the proposition would be a very different one from what it is today. But what are we confronted with today in Pennsylvania and West Virginia? We find lower prices being made than the competitive prices have been heretofore. In some parts of Pennsylvania and West Virginia they have never been on a paralled with the prices that have been paid in Western Pennsylvania, Ohio, Indiana and Illinois. It was said by my friend Mr. Robbins that reductions have already taken place in some of the Pennsylvania fields that are not in this organization. And the great Pocahontas field of West Virginia, with its great tributary fields, are proposing a reduction, and some of them have posted notices that this reduction will take place the first of next month."

62. The court erred in permitting the plaintiffs over the objections of the defendants, to introduce in evidence from the printed report of said Joint Conference Proceedings of the Central Competitive Field for 1904, the statements
4792 of Robbins and Chapman, as follows:

"Mr. Robbins: I am very glad there is evidence here that I am just as fair in keeping operators out as I am in keeping miners out. I submit that this is a most important question, and one that a majority of this convention cannot determine. We have stated here that we would give the scale committee facts and figures regarding our business that we do not care to give in open convention. Are we going to have our competitors from other states in that meeting in order that we may unbosom ourselves to them? Why, it is preposterous! It is perfectly absurd! We should not submit to it for a moment. You would be putting in the scale committee a barrier to free action. Mr. Chapman: The state of Ohio occupies precisely the same position the state of Pennsylvania does. This question in several former conventions

was discussed in open convention and regarded as a principal and important question affecting the scale of the four states. Until the miner's organization is able to put West Virginia in line, and any other outside compentitive field in line, the operators of the four competitive states do not propose to have additional partners in this arrangement without their consent."

63. The court erred in permitting the plaintiffs over the objections of the defendants to introduce in evidence from the volume purporting to contain the proceedings of the joint conference of the Central Competitive Field for 1904, the following statement in debate by Mr. Bogle, an operator:

"Mr. Bogle: Referring to the matter that was under discussion before this question came up, it seems there has been considerable surprise manifested by the miners as to why, if Kanawha and these other districts did not interest
4793 us last year, they should under an increased scale interest us this year. Even at the advanced scale Kanawha, Fairmount and other places are still consiberably under the scale paid in this competitive field, and it is a fact beyond contradiction that coal can be produced in those districts cheaper than it can be in the districts comprised in this movement. For the past three or four years it has been a comparatively easy matter for all of these districts to market their coal. There was no particular interest last year in Kanawha and some of these other districts chasing into markets that did not geographically belong to them in order to sell their coal. That situation is changed now. They cannot find a market for their coal without going in and taking markets that do not naturally or geographically belong to them. Now they are forced to do that in order to keep their mines going. They know it is a question of the survival of the fittest; they know they have the advantage of every man in this competitive movement and that they can, when it comes to a show-down, make prices that will knock us out of these markets. That is why the operators here are asking relief from that position."

64. The court erred in permitting the plaintiffs over the objections of the defendants to introduce in evidence from the printed volume purporting to contain the proceedings of the Joint Conference of the Central Competitive Field for 1904, the following statement in debate by Mr. Chapman, an operator:

"Mr. Chapman: I believe I can give you some reasons why this proposition should be adopted; Those reasons were fully stated in convention the other day; but in addition to the reasons stated there, I desire to state some reasons locally, from my own district, why we think that a reduction
4794 should take place. Within the past thirty days one of the largest contracts for coal supplies from our field has gone to West Virginia, on the line of the C. H. & D. Railway, at Lima, Ohio, some 120,000 tons of coal annually. This was taken by West Virginia people at such prices that it would bankruptcy any firm in our county that would take the contract and furnish it at the prices those people furnished it. Our county had had the contract for several years, but now it is gone.

"Another reason, in addition to that, is that a railroad, the Detroit Southern, that enters our field, is buying its supply of coal from West Virginia, bringing the coal over the Norfolk & Western road, a portion of it to Ironton and a portion of it to Waverly, and there turning it over to their connections. These gentlemen asked me to make them a proposition within the past two weeks. At the price I made them, I would simply have got the royalty on my coal and nothing more. They laughed at it, and said they were getting coal at much less figures than that. The C. H. & D. road, which is a large owner of one of the largest properties in our county is buying a portion of their coal from West Virginia, because they can get it for less money than we can give it to them. Heretofore they have taken all their coal from our county.

"These are some of the reasons why we think the time has arrived, in order to enable our field to stay in the market, when there should be a reduction in the price. The same is true in eastern Ohio, central Ohio and the Hocking Valley They have lost a large number of contracts already, and we feel that the time has arrived when, in keeping with all the other reductions that are going in the industries of the country, it is only just and right and proper that a reduc-
4795 tion should take place in the price of the digging of coal.

"As much as I regret it, and I know the other operators of our state regret it as well, this reduction is absolutely necessary if we are to keep our mines running; it is a matter over which we have no control and can have no control. We are the creatures of circumstances. We must meet these exigencies as they arrive."

65. The court erred in permitting the plaintiffs over the objections of the defendants, to introduce in evidence from the volume last referred to, the following statements by Mr. Robbins and Mr. Bogle, Operators:

"Mr. Robbins: As far as the coke interests in the Klondyke and the Connellsville district are concerned, the scale has already been reduced. In the Meyersdale District the same thing is true. We know what we have to meet. In the Pocahontas Field we know what reductions are going to be asked. We know also that there is going to be a reduction in the Fairmount Field, and we expect to meet those reductions.

"Mr. Bogle: In regard to this guarantee that Mr. Haskins asks for, I wish to ask him if he had not the same guarantee he has had ever since this Interstate movement has been in existence. Is there any spot where the mine workers have extended to their friends in the competitive field as favorable conditions as they have made to their competitors? There has never been a moment since this movement was in effect when West Virginia, Kanawha, and these other places have not been on lower wages than the competitive districts have enjoyed. Notwithstanding that, the operators, of these competitive districts have stood the handicap and have
4796 gone out and secured trade. Now there has come a time when that handicap has become too onerous for them to stand. We have always gone out and gotten your men work; we have always fought for our markets; we have always fought for your interests as well as for our own."

66. The court erred in permitting the plaintiffs to introduce in evidence over the defendants objections, from the same volume a statement in debate by Mr. Robbins, an operator, as follows:

"That reductions have been made, are being made, and will be made in competitive fields that are not controlled by you, is beyond question. You all know it. We have stood up here year after year and protested against unfair treatment by you in not meeting competitive conditions. More hours of labor, lower wages, lower deadwork, all conditions that affect the cost of coal are being given—no, not given, you cannot help yourselves—but the operators in other fields who have not recognized any demands of labor, as they have been recognized by the operators of this competitive field, have had these advantages. We have protested against it; we have protested against other unfair and unequal conditions year

after year, and you have promised, from the first meeting in Chicago, that they would be brought up, and you have failed to redeem your promise. Now, in the face of all this, with your knowledge of it, there have been reductions in those fields. Now you say you are not going to meet them, and I say for one, as far as I am concerned, I shall never sing a scale except upon these conditions. It has come to the parting of the ways, as far as I am concerned, and as far
4797 as my companies are concerned. It has come to the point where, in justice to the people who have put their money in the Company, whose report you have heard, that we shall stand for fairness and justice. It has come to a point that when conditions of the country require a reduction you should be men enough to meet the situation and not get behind such absurd and unfair statements as are made here. It has come to the time when you yourselves are just as vitally interested in the Pittsburg District as we are. What have you done? You attempted to bring up the coking price. With what result? Let me read the conditions in the Klondike field, which adjoins us, the same coal practically as ours, our coal running into it, and now during the depressed times in the Pittsburg District, when you are not working one-third of the time, and when our output during the last three months has gone down sixty to seventy per cent, that coal is coming in there and taking the trade of the operators who have been fair enough to stand out there with you and attempt to get a price, who have made the price what it is today—and you stand there idle and are willing to let them take all the trade, if need be, and tie our hands and not permit us to meet the conditions. Do you think we are going to sign a scale on any such basis as that? Never, never.

"Here is the statement:

"The price for mining coal all through the Klondyke field is not any better than 25 cents per ton mine-run in room work, and the miners get 44 cents per wagon, and in the headings 54 cents per wagon, the cubic capacity of these wagons is very similar to ours, which carry about two tons mine-run. It is practically the Connellsville scale of prices which prevail, but there is a marked difference between the con-
4798 ditions of the fields. The Klondike produces a good, strong coal and presents an excellent appearance on the railroad cars, and is being shipped into our markets all over. The organizers who have recently been in this region have not been able to do anything with the men. They regard the coal as being practically the river coal vein, and appear to think

the thick coal prices ought to prevail in that region, but they are unable to establish it.

"We can go along the line where the Fairmount District has sold coal in Wheeling recently, for the Wheeling Gas Company, for 38 cents per ton below their last year's price. We didn't suffer as much last year. Why? Because they had what they could do and therefore got as high a price as they could; but whenever it came to a necessity for finding a market for their coal they used the weapons that you have permitted them to have but have denied us. Is that fair? Are you decent, honorable, fair men, that you will stand and try to place upon people who are giving you work and making those conditions and paying those prices for you? Do you think the public for one minute will stand for such a proposition as that? Do you think you are going to get, as you got in the anthracite strike, help from the public? Never. The public will never stand for such a condition as that. If you want arbitration we will have arbitration. Let that go out to the world, let it go out to the public that we are offering you arbitration. We are willing to give it to you if you will dare meet the conditions."

67. The court erred in permitting the plaintiffs to introduce in evidence over the defendants' objections, from the same volume, the statement in debate of Mr. Chapman, an operator, as follows:

"Now as to the prices at the present time and the prices of one year ago, and the prices at which the new con-
4799 tracts that are being taken, that have been taken, and what are the prospects in the future for the operators of this competitive field in order to enable them to give you employment. In my own field in southern Ohio the contracts that have expired our people have offered for renewal at a cut in price of from 25 to 30 cents per ton, and in every instance they have lost the contracts that have expired up to the present time, and they have gone to West Virginia, the coal coming a part of it from the Chesapeake & Ohio and a portion of it from the Norfolk & Western. If you gentlemen, the miners of Ohio, Pennsylvania and this entire competitive field could take a train at the city of Columbus now and ride into the city of Cincinnati over the Big Railway you would see every sidetrack almost on that line of railway that enters the factories, the electric light plants, the water works plants, and everything of that kind, crowded with the C. & O. cars of West Virginia coal, formerly furnished by Ohio. If you take the road which goes from the Hocking Valley District

into the City of Toledo you will find the tracks filled with Norfolk & Western cars loaded with West Virginia coal. The railway that enters our field, that was built there to take the coal from that field, today is being supplied with its fuel at a junction point in the Siota Valley on the Norfolk & Western with West Virginia coal at less prices than we can give it to them and get cost for our coal and give away the royalty. * * * * *

"If you gentlemen were able to control the output of coal the situation in these four states and in this competitive field would be different, if you were able to control it in the fields that have been mentioned. But, regret it as much as you will or as much as we do the necessity of our asking
4800 you to make the reduction that we have, it cannot be helped until the conditions are changed everywhere. And as the representative of Ohio I desire to say to you gentlemen in all candor and in all frankness, with a desire if possible to continue this movement, not only this year, but for years to come and have it extend to other trades and organizations, that we cannot sign the scale proposed by you, which is the present scale. I thank you, gentlemen, for your kind attention."

68. The court erred in permitting the plaintiffs over defendants' objections to introduce in evidence from the same volume of the Joint Conference of Proceedings for 1904, the following statement in debate by Mr. Bent, an Illinois operator:

"Mr. Bent: If that is true it is not because of, but in spite of the things of which we complain. There has been a most extraordinary development of home markets. We are generally dependent upon competitive markets. If this had been true of the past few years there would have been a loss instead of a gain. I dare say that of Chicago and of the Northwest. There has been an extraordinary development right in the State of Illinois and in the markets of the South and Southwest, but we have not held our own in the Northwest. When this development ceases Illinois cannot and will not bear the destruction of her products under the mine-run system. In one way or another that thing will be eliminated.

69. The court erred in permitting the plaintiffs to introduce in evidence over the defendants' objections, from the printed volume purporting to be the proceedings of the Joint Conference of the Central Competitive Field for 1916, state-

ment in debate of John Mitchell, President of the mi-
4801 ners' union as follows:

"Mr. Mitchell: In support of this motion I wish to make a few remarks. This is not the first time that the operators and miners of the Central Competitive Coal Fields have departed from the rule which limits participation in this conference to the four districts which have been accorded representation here. A few years ago the operators and miners of Central Pennsylvania came to Indianapolis, made application for a seat in our joint conference, and were accorded that right. Mr. Robinson, of the Buffalo, Rochester & Pittsburg Coal Company, of Central Pennsylvania, was not only admitted to the conference, but served for a short time on the Scale Committee. So that in asking that the scope of work be extended so as to include the miners and operators of the Southwestern states we are establishing no new precedent. But, aside from that it seems to me that it would be to our mutual advantage if we can bring into this conference the representative operators and miners of not only the Southwestern states, but the operators and miners of every coal-producing state in the Union.

These states west of the Mississippi River—and I want to speak particularly of Iowa—are competitive with coal produced in the states east of the Mississippi River. Coal mined in Pennsylvania, in Ohio, in Indiana and in Illinois is sold in the same market as the coal produced in all of these states seeking admission here. There can be no doubt in the minds of either operators or miners that it is desirable to establish a wage scale that will be practically the same in every state and in every territory where coal is mined and sold in a common market. And it seems to me that incalculable benefit will accrue to the coal industry if we can bring into closer affiliation
and harmonious co-operation at least the men who own
4802 the mines of these various states, to say nothing of the
benefits that will come from bringing into co-operation the men who work in the mines. The trouble too often has been that you gentlemen have not worked in harmony one with the other, and too often we have had to suffer because of friction among the men who employ us. I trust, Mr. Chairman, that the proposition to include these Southwestern states, whose operators and miners are here, will be adopted, and that we shall hereafter invite to meet us the miners and operators of every state where the men are organized and where coal is mined and meets your product in competition."

70. The court erred in permitting the plaintiffs over the objections of the defendants to introduce in evidence from the

same volume a statement in debate by W. B. Wilson, a miner, as follows:

"Mr. W. B. Wilson: Mr. Robbins has stated that this proposition comes up in every convention. It is true it comes up in every convention, but it has come up in every convention because it is right, and no proposition is ever settled until it is settled right. If I understand the principle upon which this movement is based, it is to bring into the joint conference those operators and those miners whose competitive business is closely related to each other; and in asking that the operators and miners of the Southwestern Districts be admitted to this conference, we are simply carrying out that principle. The coal mined in Western Pennsylvania comes in immediate and direct competition with Ohio; that mined in Ohio, as well as that in Pennsylvania, comes in competition with Indiana and Illinois; that mined in Illinois comes in competition with Iowa;
that mined in Iowa comes in competition with Missouri,
4803 and coal mined in Missouri comes in competition with
Kansas, Arkansas and the Indian Territory. They are all related to one another; they are all competitors with one another, and it is but just and fair that each of these fields should have a representation in the joint conference that sets a base for the prices of the ensuing year. This is the first conference that is held. Whatever wages are agreed upon here, whether it is an increase in wages, a decrease in wages, improved conditions or otherwise, it sets the pace for other districts, and those other districts have no voice in saying what that price shall be. In order to avoid that condition of affairs, in order to give justice to the operators and miners in other fields not represented here at the present time, we ask you, as a matter of fairness and justice, to permit those whose operators and miners are represented here, to participate in this joint conference."

71. The court erred in permitting the plaintiffs over the defendants' objections, to introduce in evidence from the same volume of the Joint Conference of 1906, the following statement in debate of Mr. Penna, an operator:

"It occurs to me if there is to be a demand for an advance in wages it is being made, not only at the wrong time, but in the wrong place. Why should this little competitive district be made the center for continual demands? Is it because the employers of this competitive field have always favored peace? Is it because the employers of this competitive field have always favored miners' unions? Is it because they have always been ready and willing and glad to meet you? Is it because

they have given you more advances in wages, with the check-off and the eight hour day? You have got these things out of the Joint Conventions, gentlemen, and the same employ-
4804 ers who gave them to you gladly when they were able to do so, are the men who today protest seriously and sincerely that it is not the time or the place to demand an advance in wages. Is it because we are always meeting you, and you cannot reach the other people? Why not go to some of those who are not as high as the states here represented and bring them up first. We are willing to keep in the lead; we are willing to set the pace; we are willing to pay higher wages than any other part; and we are willing to meet with you and treat with you, and willing to keep the pace, but we are not willing that you should come and hold us up at all times when you are unable to catch the other people and bring them approximately to where we are.

It is no joke, and it is not foolishness when we talk about other fields shipping coal into this market—not by any means. Coal is shipped into Indiana's natural markets. I presume [their] are markets natural to every coal field, markets contiguous to those coal fields, and Indiana has such markets as well as other districts. Those people of whom we speak come in here and sell the coal and get the money. There isn't and foolishness about that; there isn't any sentiment. They get the trade and they get the money. I want to say to you now there were contracts made in Indiana in the recent past and they are being made now, for coal mined outside this state. Those contracts are made with so much indifference to your ability or your willingness to bring up our competitors that they ignore any clause providing for strikes or mining trouble."

72. The court erred in permitting the plaintiffs over the separate objections of the defendants to introduce in evidence from the printed volume purporting to be the Joint Conference Proceedings of the operators and miners for the
4805 Central Competitive Field in 1908, an extract from the statement by J. H. Jones made in debate, as follows:

"So, gentlemen, we want you miners to agree upon and advocate a scale for two years, and if you want to make it three I don't suppose the operators would object; but make it two years and give us a chance to do something, and give you a chance in the interval to settle your differences with the people who do not meet with you, who enjoy conditions at the present time you are not enjoying. You want to point your guns at your enemies. You want to point your guns at the operators who in the past have not proved by their actions that

they are friends of yours or of organized labor. This is the thing you should do in the next two years. Do not point them at your friends; turn them on the men who are not your friends.

At the present time there is coal being mined in non-union districts, and it is encroaching upon our markets; even in places where they have differences between them they are dropping them and taking away the contracts from the union fields. The question has been asked, why haven't we had this state of affairs during the past two years? The reason is, we have had very prosperous times, and there was plenty of trade for all. This is not the case at the present time; and if the operators mining in non-union fields in this district can maintain their present position, i. e., have their coal mined at ten cents to twenty cents per ton less than operators employing union labor, and are enabled to market their coal at the prices at which they are marketing it, it is going to place both operators and miners in a very embarrassing position in the very near future. In the Pittsburg District, which is the greatest indus-
4806 trial center in the world, the largest number of operators who are mining coal with non-union miners have already forced a reduction of from ten to twelve per cent. Now you should make a settlement for two years and turn your guns where they belong."

73. The court erred in permitting the plaintiffs over the defendants' objections to introduce in evidence from the same volume a statement by Francis Feehan, a miner, in debate: "Now I have very little to say in reply to Mr. Jones of the Pittsburg District. I am very desirous of lending all of my efforts to prevent, if possible, the production of non-union coal. I know that it has been my policy as an officer of the organization, to try if possible and agree along with the operators who have entered into a contract with us and are dealing as business men should do, and if I had any fighting to do I would want to fight the fellow that was unfair and who was taking advantage. We feel that this should be done."

74. The court erred in permitting the plaintiffs over the separate objections of the defendants to introduce in evidence from the printed volume purporting to contain the proceedings of the Joint Conference of the Operators and Miners for the Central Competitive Field in 1910, the following statement in debate of C. E. Maurer, an operator:

"The chief evil was the fact that districts which did not recognize the United Mine Workers and had no agreements

with them produced coal much more cheaply than those districts which sustained contractual relations with that organization. Some of the more important factors influencing these conditions were different methods of producing coal, varying
costs of mining, different hours of labor, different sized
4807 screens, not mentioning various other elements.

In order to correct these most harmful conditions a joint convention of operators and miners of Western Pennsylvania, Ohio, Indiana, and Illinois, at the solicitation of the miners officials, was called to meet at Chicago in January, 1898. At this convention an interstate joint agreement was established. After a long session of deliberation and negotiation, continuing over a period of about three weeks, the basing price for mining in Ohio and Pennsylvania was increased from 56 to 66 cents per ton, an advance of practically 18 per cent, and both the existing price and method of screening and weighing of coal was made uniform throughout the entire territory covered by the terms of the contract. As a result of the Chicago convention a representative meeting was subsequently held at Columbus, at which a uniform day-wage scale was established for inside labor. All of these concessions made by the operators were of substantial benefit to the miners.

In addition to the advance in the price of mining and the other important concessions enumerated, the action of this convention had an effect of the most far-reaching and salutary character, not alone for the mine workers but for the entire labor world, in the recognition of eight hours as constituting a day's labor, this being the first recognition of the eight-hour day by any large body of employers in the United States.

The granting of the eight-hour day by the operators, after making these numerous other important concessions, was with the distinct understanding and explicit promise of the miners to give to the operators of the four contracting states adequate protection against the competition of the unorganized fields.
From year to year they have been called upon to fulfil
4808 that promise.

The operators, parties to that agreement, at the time of its execution felt that it was absolutely necessary to the safety of their investments that they be protected from the encroachments upon them by their competitors of the unorganized fields entering into the competitive market, particularly of West Virginia and Kentucky, at that time was not so large, as it was [agressive] and threatening, the total tonnage [entereing] di-

rectly into competition from those fields being approximately 600,000 tons. Since, however, coal from this unorganized territory coming into direct competition with Ohio and Pennsylvania has so increased that a fair estimate places this competitive tonnage at 8,000,000 tons, which does not include the tonnage from non-union fields adjacent to the Pittsburg District. The markets in western and northern Ohio, eastern Indiana, and Michigan, from year to year have been encroached upon by coal from the unorganized districts until at the present time nearly 50 per cent of the coal consumed in these markets is supplied from fields operated with non-union labor. To find a market for the union tonnage displaced in the territory named, the mine owners of Ohio and Pennsylvania within the past five years, have made heavy investments and built and equipped large coal docks to secure markets at the upper lake ports; but these operators now find the non-union coal rapidly commanding a heavy percentage of this market, when, at the time of the Chicago agreement the non-union fields had but a small fraction of this trade, and unless these conditions are corrected the markets so secured will soon be replaced by the tonnage from West Virginia and Kentucky.

4809 Though in the very heart of the consuming territory, on account of the wide difference between the price of labor in the organized fields of Ohio and Pennsylvania and the unorganized fields of West Virginia, Kentucky and the fields adjacent to the Pittsburg District, Ohio and western Pennsylvania are rapidly losing the markets at their very doors.

It is evident to any candid observer that such unfair conditions should not be imposed upon the operators and miners of the unionized territory. That the interests of operators and miners are mutual in every respect does not admit of controversy. Each is equally concerned in rescuing this business from its present peril.

The officials of the United Mine Workers are aware of the price at which Ohio and Pennsylvania coal has been sold during the past two years in order to meet this competition, and it is no unwarranted assumption to declare that these officials know the operators of these two states have in many instances operated their properties at a positive loss, being compelled to do so in order to maintain even a precarious position in the markets, while hoping for relief and expecting, in view of the experiences of both operators and miners during that period, that the miners would gladly concede something to the common good.

At the agreement reached in Toledo two years ago no reduction whatever was made in the mining price, and for the past two years the maximum price for mining has been paid in the contracting states. During this period of industrial depression practically all classes of labor in other industries accepted a material lowering of wages. As reductions in the
4810 mining price occurred in practically all of the unorganized fields producing competitive coal, the conditions in the organized states were rendered even more onerous. On account of this competition the production of coal in western Pennsylvania and Ohio has not kept pace with the unorganized competitive states, and has lately resulted in a reduction of both tonnage and time to the miners and in the price of coal to the operators. The decrease in tonnage of Western Pennsylvania for the year 1908 was 33-½ per cent; for Ohio, 18.27 per cent; while for West Virginia the decrease was but 12.88 per cent, and for Kentucky 5 per cent. The decrease of of the values in Pennsylvania was 23.67 per cent; in Ohio, 21.03 per cent; in West Virginia, 16.38 per cent, and in Kentucky, 9.54 per cent.

In addition to this loss of time for want of business in the organized fields, the miners of Ohio alone lost during the year ending December 31, 1908, 95¾ hours per man on account of local strikes and suspensions, while in the unorganized fields of West Virginia but 1¼ hours per man were lost from the same causes. During the year 1908 West Virginia miners worked 75 per cent of the working days, while Ohio miners worked but 54 per cent of full time, allowing 300 eight hour days, or 2400 hours, for a full year.

The mining price of coal has steadily increased in the contracting states from 56 cents per ton in 1897, the year prior to the Chicago agreement, to the present scale of 90 cents, or an increase of 60 per cent; the wages of all other labor at the mines have increased in equal or greater proportions, while the cost of mining paid in the unorganized fields ranges from 25 to 40 cents per ton below this price, with mining conditions that still further reduce the cost, and the hours of labor
4811 from nine to ten per day. While the cost of producing coal in the districts that are parties to this joint agreement has increased as indicated, the price for coal at the mines has not kept pace with these changed conditions, by reason of the competition of the unorganized districts.

The operators of the districts here represented are willing and ready to pay as high price to their labor as is paid by the operators of districts producing coal entering into competition

with them. We view this situation now actually confronting both the operators and the [minors] as most critical indeed. If there be any merit in the claim of mutuality of interests, it is incumbent upon both operators and miners to meet these conditions, each sharing the responsibility for the result. Our interests must be protected if our employees are to find work; and in order to protect those interests and to give that employment; we feel that this is the time for an agreement based upon a recognition of the actual conditions and wages paid in the states producing coal entering into competition with us.

Finally, we ask for the fulfillment of the pledge of 1898 upon which we made to the miners so many important and costly concessions. Though that promise has not been kept, we have continued for twelve years to make additional concessions by increasing the mining price from 66 cents agreed upon at that time to 90 cents, and in other respects conceding demands without any compensating concessions upon the part of the miners, until we now find ourselves at the limit of financial safety. The operators can make no further concession. It is now, in our view, not only to the interests of the miners but their duty as well to do their share to meet these conditions.

It has been set forth as the controlling reason, for an
4812 increased price for mining that the cost of living has increased during the past few years. Is it not fair, equitable or reasonable to believe that by making conditions in competing districts equal, the districts which are parties to this agreement will benefit by a larger number of days employment, and thus the earning capacity of the miners of our district be largely increased?

We believe this to be a true statement of facts, and therefore call upon you to relieve us as well as yourselves from the unfortunate situation in which we now find ourselves, due to the failure of the miners' organization to keep the faith pledged at Chicago in 1898.

We therefore insist that your organization place the districts, parties to this agreement, on the same relative basis as the unorganized districts with which we are compelled to compete."

75. The court erred in permitting the plaintiffs over the defendants' objections, to introduce in evidence from the volume referred to in the last assignment the statement in debate by T. L. Lewis, President of the Miners' Union, as follows:

"Great stress has been laid upon the word 'competition', competition from West Virginia, from Kentucky and from

other places. Let us analyze that statement briefly. We will go into it more in detail before we get through with this interstate joint convention. The claim is made that Ohio's production has not increased in proportion to the production of West Virginia. That is true. There is no argument about that. Why? Because, the operators say, of the ability
4813 of West Virginia operators to put coal in the markets they have taken away from the Ohio operators. I believe that is true to some extent, but it is strange that some of the leading operators of Ohio have gone to West Virginia and that some of the leading operators of Western Pennsylvania have gone to West Virginia. I am not blaming them for going there; but those same operators have been told, "You ought to lend your influence, if you are sincere in this interstate joint movement, to show to the operators of West Virginia that this joint movement is a good thing for the mining industry of the country.' The real facts are that the operators from Western Pennsylvania and Ohio that are going into the districts the operators complain of resort to the same tactics as the West Virginia operators do to keep the United Mine Workers out of that field."

76. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence from the volume containing the Joint Conference Proceedings of 1910, the following statement by Mr. Green, a miner, made in debate:

"Let me point to the fact that the United Mine Workers of America have diligently and aggresively attempted to carry out the promise made in Chicago in 1898; that they have done everything in their power to redeem any promise they may have made to organize West Virginia. Since 1898 our organization has at various times spent hundreds of thousands of dollars trying to unionize West Virginia. We have also sacrificed human life in the attempt to redeem that promise. In view of the fact that we have spent hundreds of thousands of dollars and that our organizers, our members who have sacrificed their lives and their liberties, we should be given credit for what we have done. I want to ask the operators how much money they have spent and what they have done to aid us to organize West Virginia. Is the
4814 fact that we have spent hundreds of thousands of dollars appropriated from the small earnings of our people in the Central Competitive field, and the fact that we have sacrificed the liberty of some of our members any evidence that we have tried to redeem that promise. Does that not show that we have honestly, sincerely and diligently attempted to redeem it? I believe, gentlemen, that if the op-

erators had done one-half as much as the miners have done, if they had even co-operated with us in what we have done, West Virginia would be organized and the operators and miners of that state would be here today participating in this joint movement."

77. The court erred in permitting the plaintiffs to introduce in evidence from the volume referred to in the last assignment, a statement of Mr. Maurer, an operator, as follows:

"And I am going to put up to you, I am willing to concede to this convention that West Virginia is not organized; that for ten or twelve long years the miners have done everything in their power to organize that field, and that they did it diligently and earnestly is admitted, nevertheless that field today is unorganized. Nobody is to blame. Neither the operator nor the miner is to blame for that condition; but it is a condition that we must meet and each one bear his share of the burden. Eight million tons of the coal from that unorganized state is today taking away from you the product of your labor, and taking away from the operator every cent of profit he ever had in the business. You cannot correct that. You may say to us, 'You must get together and agree upon prices; you must get the West Virginia operators in and agree upon a price." Why, every man who stands here knows that if the operators in the State of Ohio attempt it they do so in
4815 violation of the Valentine law, and that the penitentiary stares them in the face. Every miner here knows that if in the States of Ohio and West Virginia the operators were to attempt anything of the kind, they would violate, not only the Valentine law, of Ohio, but they would violate the Sherman Anti-trust law. It is easy to tell us what to do, but you should tell us how to do it. Does any miner here believe that the operators of the State of Ohio have not tried to get the best price they can for their commodity? We have some interest in our business, we have our money [envested] in it, and I assure you that for two years the miners and the railroads have got every cent there was in it, and more too."

78. The court erred in permitting the plaintiffs to introduce in evidence over defendants' objections, from the said Joint Conference Proceedings of 1910, the following statement of Mr. Penna, an operator:

"There are some facts that it is useless to attempt to ignore. The very purpose of the union is to increase the price of labor, to reduce the hours of labor, and then when that is done in this meeting we go home and there are attempts made, and often enforced, that further increase the cost. That is the very pur-

pose of unionism. It has no right to live on any other plane than that, or at least we have never discovered it. It has no object in existing that we know anything about except to increase wages and decrease hours of work, and it has been successful in doing it. It is also a fact that not more than one-half of the miners of the United States are unionized. Those who are not unionized work more hours, perform more labor for less money, and as a result throw on the market a cheap product. Those are the non-union men, those who are
4816 the men who are our mutual foes. They are your foe, and as long as you pursue a policy of trying to get more from the operators in the territory that is unionized, getting more directly and getting more by indirect methods, you are furnishing an inducement to the non-union miner and to the non-union coal operator to remain in that position, because they are better able to take your trade, they are better able to take our markets, they are better able to get your work, and the operators are better able to get our profits."

79. The court erred in permitting the plaintiffs to introduce in evidence over defendants' objections from the said Joint Conference Proceedings of 1910, the following statement in debate of Mr. Chapman, an operator:

"You made promises in 1898 that you have not kept. You may have tried to keep those promises, but you know what was said and what was done on the floor of the convention in 1898. I was a participant in it, as I have been in the preceding interstate movements. You know what the understanding was, and you know that at every session of every convention that has been held from that time down to the present we have asked you to carry out and make good what you said you would do at that first conference. In my opinion the only way you can ever hope to succeed in putting the union fields on a competitive basis in cost with the non-union fields, the only way you can give your people more work and the other fellows less is to reduce your wages to enable the operators to produce their coal at a cost that will enable them to take the trade. It can be done in no other way. You have tried the other process for twelve years and it has been a total failure; you are weaker now in the non-union fields than you ever were. They are producing more coal and increasing
4817 their output monthly and yearly, and it will only be a short time until the Ohio coal docks will be a thing of the past, the mines will be closed up and you without work in your own state. An industry that now employs 60,000 people in the state, to say nothing about the other labor that is employed

by railroads and other industries in connection with the Ohio coal producing field will be without work."

"The controlling influence in Ohio has been the competition of West Virginia coals with the domestic product, unhampered by the restrictions that hamper states in which the miners are thoroughly organized, such as Ohio, and also because of the conditions of mining. The coals of West Virginia are said to be mined at about one-half the cost of producing Ohio coals and the West Virginia product has taken the Ohio markets to the full extent permitted by the difference in transportation expenses, leaving Ohio coals only such markets as may be near the mines, and as the means of transportation increases by which West Virginia coals are put further into Ohio markets, the prospect of the Ohio mines is not bright."

80. The court erred in permitting the plaintiffs to introduce in evidence over the objections of defendants from the Joint Conference Proceedings of 1910, the following statement in debate of Mr. Zerbe:

"A very considerable amount of censure and criticism has been put upon some operators who are here because of the fact that they have gone to West Virginia and found investments. I will remind the other side of the house that the men who have gone into Virginia are business men; they are engaged in the coal industry, and they bring the
4818 commodity from one state or another to furnish fuel for such contracts as they take. They have found by experience that you as an organized body are not treating them fairly where they are circumscribed in the production of this commodity. They find that you are putting upon them burdens in the organized fields that do not exist in the unorganized fields. By reason of the fact that you cannot control in the production of this commodity, although we are willing to admit you have made an effort their market is being taken from them or restricted or narrowed, and many of them in self-defense find it necessary, in order to carry out contracts and fulfill their obligations to those who take this commodity from them to go to West Virginia and invest in properties there that they may continue a business for which they are obligated. I am not one who has done that, but I may be. They believe that at these intervals you will place their properties in the unionized sections in a position where they cannot operate them, and as a result they go to the unorganized fields and invest money and feel secure that under any conditions they can fulfill these obligations. The operators are

not seeking to go there but you are driving them there by your attitude toward the people who have been your best friends. There are many of us who have not gone to West Virginia; there are many of us on this side of the house who are not important operators. We own our mines. We are here in the position we find ourselves through no fault of our own. It has been said we have been wasteful because we have accepted lower prices than we should for our coal. If operators who do that are guilty, I am one of them. I accepted a lower price for tonnage last year than I ever did in my life, and I have been in this business all my life. Did I do that because
4819 I wanted to give anything away? No; but I did it, and I want this fairly and distinctly understood, because there was a certain tonnage I could place at a fair price. That tonnage could not be produced and keep my men at the mine and support them unless they had additional tonnage, and I did take tonnage at a lower price than I ever did in my life; I gave the boys at the mine the benefit of it and I paid my pay roll. When the year had finished those results came on the wrongside of the ledger. Our property was wasted; I got nothing out of it; those associated with me got nothing out of it. The only profit derived from it was derived by the men who worked those mines, and they had as much, though coal was given away, as though we had secured a good price for it. Instead of censuring us, I believe you should say, "You have done the fair thing by us and we appreciate it." "

81. The court erred in permitting the plaintiffs to introduce in evidence over the defendants' objections from the said Joint Conference Proceedings of 1910, the following statement in debate made by Secretary Perry of the Miners' Union:

"The price paid for mining in West Virginia is not the only cost of production. Those men have bills to pay that you do not, and you know it. It is not necessary that I should mention what they are. As a result of the organization trying to organize that field there is an added cost to the production of those operators. In my judgment, if the miners are paid an advance in the organized fields I do not believe it will be possible for the mines in West Virginia to operate and pay the present rate of wages."

82. The court erred in permitting the plaintiffs over the defendants' objections to introduce in evidence from the said

volume last referred to the following statement of Mr.
4820 Chapman, an operator:

"Years ago we asked you, pleaded with you, to bring the non-union fields up to a scale of wages that would enable us to pay you the scale you have asked for from time to time; and you promised to do it, but you have not done it; you have not kept the faith. We would be willing to pay the scale today and make the advance if you would put those people on a level with us in the cost of production. You know you cannot do it. You have made efforts to do it, but you are farther away from the goal now than you were in 1898, and you are getting farther away every day. You know you cannot enforce the scale of wages. In every district that you have attempted it you have practically lost out, and you are losing every day."

83. The court erred in permitting the plaintiffs over the defendants' objections to introduce in evidence from said volume the following statement in debate of Mr. Green, a miner:

"I do not propose to attempt to defend the non-union fields of West Virginia. I know, as do the other miners on this side, that the non-union product of West Virginia is a serious proposition. As evidence that we recognize that fact, out of the meager earnings of the men on this side we have contributed month after month and year after year to try to organize that field and bring them up to a competitive basis with our friends on this side."

84. The court erred in permitting the plaintiffs over the separate objections of defendants to introduce in evidence from the printed volume purporting to contain proceedings of the Joint Conference of Miners and Operators for the Central Competitive Field for 1910, the following statement
4821 in debate of Mr. Hayes, a miner:

"I have had charge of the organizers during the past year, and we have made every possible effort at our command to spread the gospel of unionism into the non-union regions. The future looks bright. Today there is a splendid sentiment among all the non-union operators of the south in favor of this organization. I want the operators to realize that this organization is doing everything in its power to limit unjust competition. We believe in fair competition between the operators, and I want to assure you that we are doing everything in our power to limit unjust competition. I understand that

will be the basis of your argument in this conference, as it has always been."

85. The court erred in permitting the plaintiffs over the objections of the defendants to introduce in evidence from the Joint Conference report for 1910, the Operators' Proposition submitted to said conference as follows:

"Secretary Perry read the following proposition:

"Operators' Proposition.

"The experience of the last two years under the present scale of wages and the losses sustained by reason of the wide difference between the prices paid in this competitive field and the non-union fields with which the product of our mines enters into direct competition, makes it imperative that some relief be given us.

"Unless this situation is changed and some relief given, our tonnage will be still further reduced and our markets still further absorbed by these non-union fields, with a repetition of the financial losses for the next wage period that we have sustained during the present and a consequent loss of employment to the miners.

4822 "With this condition actually existing we have no recourse but to ask that the miners bear their part of the burden, and to meet this condition, grant us a substantial reduction.

"We therefore propose a return to the 1904-06 scale of wages in the basing districts, with the right for the operators of the State of Indiania to ship mine run or screened lump regardless of which basis is used in paying the miner."

86. The court erred in permitting the plaintiffs over the defendants' objections to introduce in evidence from the volume referred to in the last assignment, the following statement in debate of Mr. Field, an operator, together with a colloquy following the same:

"Mr. Walker spoke of the increased cost of living this morning, and by inference said it was arbitrary and artificial; and in the next breath your Vice President spoke of raising the price of coal ten cents by the operators and charging the public more. I am not going to attempt to get into the practical end of mining, because I am not conversant with it. There is no use of any one taking up the West Virginia condition, because you are all familiar with it. We lost business last year because we could not meet competitive con-

ditions. I don't see any way we are ever going to meet competitive conditions unless we have a decrease.

"Secretary Perry: Will you permit me to ask you a question?

"Mr. Feld: Certainly.

"Secretary Perry: Suppose you were granted a decrease, don't you think the West Virginia miners would have their wages reduced?

4823 "Mr. Field: If they did you would have a chance to unionize them.

"Secretary Perry: Do you think the West Virginia operators would reduce wages?

"Mr. Field: Yes.

"Secretary Perry: Yes, and a great deal more than you would.

"Vice President Hayes: If the West Virginia miners were reduced in the same proportion as the union miners, would it change conditions?

"Mr. Field: Yes. The West Virginia miner is not dissatisfied today, and he will not be dissatisfied as long as you raise his wages. You have got to meet conditions down there and have those people go as low as they can.

"Mr. Walker: Will you permit me to ask a question?

"Mr. Field: Certainly.

"Mr. Walker: Do you think it would add to a desire on the part of the West Virginia non-union miner to come into our organization if we reduced his wages ten cents a ton?

"Mr. Field: I still maintain it will give you a chance to unionize down there, which you have never done, and there has been no real attempt to do it that I have ever heard of.

"Mr. Walker: Suppose you were mining coal down there and our organization—

"Mr. Field: If I were a miner on your side and I wanted to get back my trade I would meet the West Virginia conditions if I had to come down to their basis until I got my trade back.

"Secretary Perry: In your judgment, if our demands were conceded here today, or at any subsequent meeting, do you suppose the West Virginia miners would work for the present scale of wages?

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"Mr. Field: I think they would do what [the] pleased down there—what they have always done.

"Secretary Perry: What has been the practice of the past?

"Mr. Field: I don't know.

"Secretary Perry: If the operators concede the advance would it not have a better effect in organizing those non-union miners than if there was a reduction? Would they not become more restless?

"Mr. Field: It has not had that effect.

"Mr. Hayes.: Illinois: If the operators granted a ten cents advance would it not make the West Virginia miners more dissatisfied with their condition? It seems to me we ought to establish an ideal for them to work to. If we reduce wages it will not be much of an inspiration for them to organize."

87. The court erred in permitting the plaintiffs over the objections of the defendants, to introduce in evidence from said Joint Conference Proceedings of 1912, the following statement in debate of Mr. Maurer, an operator:

"Now you tell us we are competing among ourselves. Possibly we are. But when you go back over ten years and see the vast inroads of West Virginia coal in the markets which belong to you and to us, because of our geographical position, can you tell us how we are going to prevent it on this side? We cannot say to the operators of West Virginia, "Get more for your coal," because they are forcing their coal into our markets, and every ton of our coal that is displaced [id] displaced by a ton of West Virginia coal. West Virginia is growing, and in order to grow she must drive you and me out of business or she can grow no more. And the same is true of Kentucky. There is only so much demand for coal; and while year after year the great demand is increasing and the product is increasing; yet West Virginia and Kentucky are growing and growing and doubling their output while we are barely crawling along, and we are getting no benefit from that increase and never can get any benefit from it until we stop this competition.

4825

"There may be competition among ourselves, and there is bound to be competition as long as our markets are being taken from us day after day and day after day by the product of these non-union states, and the operators are absolutely and unconditionally helpless. If we get any relief it must be the relief that we can work out between us. And you will unionize West Virginia when you put them down to the point where they will have to become union men. You will never unionize them as long as you increase your wages and as long as you are willing to work one hundred days a year and let them work three hundred days a year.

"Those [me] want union conditions. They are making more money than you are. You may talk of the pitiable condition of those men, but I tell you, at the end of the year they have earned many more dollars than the miners of Ohio and Pennsylvania. Why? Because you are setting your mark so high they can work their mines every day while our mines lie idle; and they can pay the men pretty close to the wages we are paying you, and with the other conditions they can produce their coal from thirty to forty and fifty cents a ton cheaper than we can produce coal in Ohio and Pennsylvania.

"No you can never unionize West Virginia on that basis, because they don't want to be unionized. You have got
4826 to meet that situation, you cannot get away from it. The markets on the Great Lakes are being taken day after day by the product of West Virginia. Why, men in Eastern Ohio owning docks on Lake Michigan have not been able to put a pound of coal on them this year. Why? Because West Virginia coal has been put on the docks in Lake Michigan at $1.70 and $1.80 f. o. b. You cannot meet that condition. The operators cannot meet that condition. The only way it can be met is by joint action between the employer and employe to protect their industry. It is your business and our business; you cannot keep continually going up and up and up, for if you do you are simply going to reduce the product of your labor to a minimum and some day you will wake up and find you have no business in Ohio and Pennsylvania. That will be the result. I tell you we cannot see our markets going any longer.

"We have tried to meet the situation in the Northwest. We have our money invested in docks up there along on Lake Superior, and we have been able to hold the situation there simply by holding together. That is all we have done. We have seen our markets in Western Ohio, Indiana and Michigan go. Do you realize that today the amount of No. 8 or Pittsburgh

coal going into these markets is absolutely nothing outside of the railroad tonnage? Do you realize that from a commercial standpoint you haven't any business? Now let me take you along the line, and I am going to take you right to your own district in Eastern Ohio.

"Of the product of 1910, with the great Illinois field absolutely out of business—and we ought at least to have had some benefit from it—the output of our mines in Eastern Ohio went as follows: Two and one-half million tons to the initial railroad; two and one-half millions on foreign railroads,
4827 about two and one-half millions to the lakes for cargo and fuel, and one and one-half millions to the Steel corporation. The balance of the tonnage was distributed to local points. That is where the product of our mines went, and we could not get any farther than that."

88. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence from the same volume, the statement of Mr. Penna, an operator, as follows:

"The arguments indulged in here with reference to West Virginia—and I have heard that ever since I have known anything about mining coal in the United States. It has been the same old song always, the same old continuous cry that the miners cannot advance farther in this competitive district with West Virginia where it is. It has lost none of its force with age. It is as forcible, or more so, today than it ever was, and the Mine Workers Union has always recognized that force. No matter what may be said here in this meeting, the history of the past, the work that has has been put in in West Virginia, the money that has been spent there and the continuous attempts on the part of the Mine Workers' Union—with more or less zeal—is evidence of the fact that the Mine Workers' Union recognized that West Virginia is a drag on this competitive district.

"It isn't any use for us for a minute to hoodwink ourselves or each other, or laugh at the idea of competition or attempt to minimize its effects, it is present and it must be reckoned with. The mine workers of West Virginia either do not want to be unionized or the employers in West Virginia do not want them unionized, or both.

"I am not going to attempt to explain why the men of West Virginia do not want to be unionized. That has never
4828 been clear to me; I don't understand it; but I can understand why the [mployers] do not want them organ-

ized; and one of the chief reasons is because they see and know from public and private sources how the employers are treated in localities where the union is strong. And they properly conclude that it is cheaper by any method which they may see fit to adopt, by all the methods which they may see fit to adopt, it is cheaper to adopt those methods and pay the bill than it is to submit to the unionizing of their properties. They are properly afraid of what might be the consequences. They will read the reports of this meeting. They have of other meetings just like it. They see where we have talked of a desire to unionize West Virginia for only one purpose, namely, to exclude them from the markets in order that we may replace their product with ours. And hence they lay back and conclude, 'We are going to take no chances. We have those markets and we are going to maintain them as long as we can and encroach as much farther as we may.' They see reports of meetings of this kind and of the miners' demands. They read of the continual strikes and disputes and turmoils and violations of contracts in districts that are unionized, and they conclude it is cheaper to remain non-union, that it is more profitable, after paying all of their expenses, than it is to unionize.

"And I say to you, gentlemen, that the West Virginia operators are not alone by any means. There is nother competition than that of West Virginia. Kentucky is a vast, developing state, and between West Virginia coal and Kentucky coal Indiana has no bed of roses. It may surprise you gentlemen to learn that in the State of Indiana alone there is a very,
very large portion of West Virginia coal and Kentucky
4829 coal consumed in our own and natural markets that
cannot be reached because we cannot produce coal cheap enough to reach them. You may know that. We know it. It is public information.

"If it were possible to make a contract in this conference that would influence the mine workers of the United States—I don't mean influence them directly—but to make it in this conference and guarantee its acceptance and put them on an equality, then I am willing to concede that there is no impropriety in your demands. It would be a matter of indifference, within reason, to the operators as to what they paid and the number of hours the mines were in operation if there was this uniformity of which we speak. The people over here would be [please], I expect, to concede any demand you might make within reason if you would only permit them the control of their property.

"But that is not the situation, and however much we may talk, no matter [now] long we may talk, the fact still remains, that a majority of the tonnage of the United States is produced by non-union labor. And this competitive field is more directly influenced by that non-union product than any other locality in the United States. I could not say positively how many men there are in the states of West Virginia, Kentucky and the bituminous field of Pennsylvania that are non-union. I don't know. I expect there are in the neighborhood of 150,000 or 160,000 men, butted right up close to the edge of our territory, all around us, ready with their cheap labor, with their greater number of hours of work, with a good production to supply any market in which they can get a footing, and enabled to get a footing in almost any market they desire by reason of the non-union and cheap product.

4830 "In 1911, as compared with 1910, [out] little state fell off approximately six million tons of coal. Our 1910 product was unusual, it was larger than it had ever been, due to several causes. One was the fact that Illinois was on strike. Another cause was that the general increase in the consumption of coal all the world over was enormous. There was not a coal producing country in the world that did not enormously increase its tonnage in 1910. Every nation on earth producing coal increased its tonnage. Indiana did not increase very much beyond its proportion, and what it did increase beyond its proportion we attributed to the strike in Illinois.

"This year we have fallen off six million tons or thereabouts, approximately 33-1/3 per cent of our production, and while we were doing that in the twelve months of 1911 West Virginia increased practically twelve million tons in the same year, or nearly a million tons a month. Kentucky, on the south of us, increased her production. Ohio lost several million tons in her production last year as compared with 1910.

"Now, that is our situation in this competitive field, and in view of such a situation it does not seem to me we can consider for a minute the payment of any advance in prices. The argument is in favor of the opposite—the reduction demanded by the operators."

89. The court erred in permitting plaintiffs to introduce in evidence over the defendants' objections from the Joint Conference Proceedings of 1912, the following statement in debate by Mr. Lewis, a miner:

4831 "The argument made against the advance on account of competition from West Virginia is not a new one.

The burden of the responsibility for failure to organize West Virginia and Kentucky is placed upon us by the operators. I make the broad statement that the operators are just as much responsible for the condition that exists in West Virginia and Kentucky as the miners are. Now, it is not fair to make that statement without proving it. The operators of Ohio and Western Pennsylvania seek to have the condition remedied by a readjustment of freight rates because they believe there is no hope from the miners' union. The argument made before the Interstate Commerce Commission was that coal is produced from 25 cents to 30 cents per ton cheaper in West Virginia by operators who put that coal in competition with Ohio and Western Pennsylvania and they used that as an argument why they should have a readjustment of the freight rates.

"By that very argument made by the operators of Western Pennsylvania and Ohio the operators of West Virginia are impressed with the idea that the purpose of their movement is to organize the miners of West Virginia to keep the operators out of the market, or to readjust the freight rate differential in order to make it possible for them to get into the market. That is the one side. The other side of the proposition is that our own people—and when I say our own people I mean the miners—insist that we must organize West Virginia in order to protect the central competitive field. The operators here, even from Indiana and Illinois, discuss just as often if not as persistently and strongly the competition from the non-union fields as the operators from Western Pennsylvania and Ohio do. And you fix in the minds of the non-union op-
4832 erators that the entire purpose of the interstate movement is to monopolize the business north of the Ohio River and keep the fellows on the south down where they belong.

"I am not one of the representatives of the miners who has denounced West Virginia operators, because I believe their miners can be organized quicker by going to the operators and convincing them that they are entitled to their share of the great northwestern trade. I believe they are. I don't believe they have any right to put any coal down at my home; I don't believe they have any right to put any coal in Columbus in competition with Hocking, but they do it. I don't believe they have a right, except for special purposes, to put coal into Cleveland against Massillon, especially as a domestic proposition. But if they have the advantage down there that is claimed for them it is due to our own—I might say foolishness—it is due to our own methods of discussing the problems affecting the central competitive field. We always refer to the

non-union operators as people who must be controlled in order to protect our interests in the union fields.

"When the operators proposed a reduction here I made up my mind at first that I would [—] say anything at all about it, for the reason that they know just as well as we do, regardless of what may be said to the contrary, that if we took a reduction of 30 cents a ton West Virginia would meet it. When we had no intestate joint movement so far as the Ohio miners were concerned, back in 1895, and 1896, the miners were starving, and the operators were going into bankruptcy. The joint movement was the Godsend that saved them. But the
4833 joint movement, instead of being extended, has been broken up several times for no other reason than that operators came in here and wanted to look after their own interests, as it applied to certain states; and the miners were willing to take the broadest view of the situation, say, 'We will throw wide open and build a constructive scale from the bottom to the top'. I believe when we finally get through here we will have still left unsolved the problems that must be solved some way before we will have a permanent interstate joint movement, before we will be able to induce the operators of the southern field to become part of it.

"If we go back through the history of this movement we will find the operators of the central competitive field have voted against and talked against admitting anybody else except West Virginia, and they would not admit the West Virginia miners unless the West Virginia operators were present, which was inconsistent on their part.

"Reasons have been given for an advance in wages. I am not one of the representatives of the miners who believe that if we can get 20 cents a ton advance in wages the operators can simply go out and say to the consumers, 'We want 20 cents or 40 cents more for our coal.' I did believe however that if our demands were conceded by the operators and we were given an advance in wages the operators in the non-union field would immediately concede the advance to their employes. There is a reason for that. They do it in order to keep their men there with them. As a matter of fact, the operators in the non-union fields had a very strenuous time keeping enough men in their mines to operate their plants. They have agents out always, and after they get the men there they have a strenuous time protecting them from
4834 becoming organized. I believe there are just as good union men at heart working the mines of West Virginia as anywhere else in this country. I believe the opera-

tors of West Virginia, or a number of them, would be willing to go into a joint movement if they were convinced that the movement meant equity for everybody, and didn't mean shutting out of the markets the mine owners of the non-union districts. I make this statement because I have talked to non-union operators of West Virginia on this subject. That is their position, and anybody else who goes and talks to [the] will find it to be true.

"We want an advance in wages because it is necessary for us to get an advance in order to meet our modest obligations. I believe this joint movement ought to go on record after we have reached an agreement to have the West Virginia operators and miners meet, not for the purpose of making an agreement—because if we told them that they would not meet us—but to draw up an agreement with them that we don't propose at this time to deprive them of what rightfully belongs to them in the market. West Virginia must market her coal either east or west because she does not consume it at home."

90. The court erred in permitting the plaintiffs to introduce in evidence over defendants' objections from the Joint Conference proceedings of 1912, the following statement in debate by Mr. Penna, an operator:

"We are up against this competition, there is no use trying to get away from it. In your non-union fields your men work ten hours a day as a minimum and the maximum is unmentioned—anywhere from that to twenty-five. For ten hours the day men get about $1.50, and if they work twelve or fourteen hours a day they may get a little more. I
3835 don't know whether they do or not. The coal is weighed or measured, and our experience has usually been that when coal is measured in coal cars those cars seldom get any smaller. And you say you cannot organize those people and their product goes in direct competition with ours. One reason you cannot organize them is because they have certain methods to which they resort to prevent organization.

"You may be able to do as the gentleman over there suggested, you may be able to get all you are asking at the end of a strike; but that will not make it just. And if you do it will not be helpful to the men you represent any more than it will to those people over here. I believe every man on this side of the house is willing to give just as much as the business will permit, in view of our surroundings. Organize those Virginians and organize those Kentuckians, organize

central Pennsylvania and them move up together. Level up and then move, but don't keep moving the highest."

91. The court erred in permitting the plaintiffs over the objections of the defendants to introduce in evidence from the Joint Conference Proceedings of 1912, the following statement by Mr. Maurer, an operator:

"Organized labor should be interested in organized fields. Comparatively organized labor in this field is making as much money as in any other, or more. Let organized labor announce to capital, to Wall street, if you please, to the great railroad corporations the operators of Ohio and Pennsylvania have commenced to fight—that are independent, that are not controlled by the railroads or anybody else—'We are going to stand with them shoulder to shoulder, and every time you invest a dollar in non-union states we
4836 are going to help wrest it away from you, we will help through the government, we will help our operators through our [vites].' When you announce that policy you will commence to make that long productive line in West Virginia that has been growing crumble and shrivel away. But you will not do it by taking away from us everything we have done along the right lines.

"Now, gentlemen, this competition is here. It ought not to be a fight. I don't like to hear men on that side of the house, with these conditions actually staring them in the face, with that line indicated growing, and growing, and growing, I don't like to hear them state, 'We are ready to strike for our rights.' I want you to say, 'We are ready to strike for our rights,' and include this side of the house. We are doing our duty, we are fighting to prevent West Virginia increasing her tonnage; and if you treat some of your operators in this field with the consideration they are entitled to you might get those same operators to treat you with the same consideration when you come over to West Virginia."

92. The court erred in permitting the plaintiffs over defendants' objections, to introduce in evidence from said volume, the following statement by Mr. White, a miner:

"We are anxious to establish the organization in the West Virginia fields and the other non-union fields as the gentlemen on the other side of the house are to have us do so. But constantly holding that state up to ridicule will not help us to do it. I believe, on the contrary, it will militate against a final solution of that proposition. As has been pointed out

times without number, West Virginia has no markets within the state, and if it were thorougly organized of
4837 necessity it would have to find markets outside the confines of its own commonwealth. Nature has favored the little mountain state with an inexhaustible vein of coal, of high quality and good mining conditions; but the operators there have been successful in defeating the aims and purposes of the United Mine Workers to a large extent, although no one can deny that under the various administrations of the organization every effort has been put forth to try to break down the conditions that are complained of here by the other side."

93 The court erred in permitting the plaintiffs over the defendants' objections to introduce in evidence from said Joint Conference Proceedings of 1912, the following statement in debate by Mr. Walker, a miner:

"The places that are nearest the non-union mines, of course, have got to be the ones really that are up against the strongest competition. They are the ones where the situation is the most serious—and I don't care whether you leave it as it is now, and we will say West Virginia and Kentuck are the worst places—if you will organize West Virginia and disorganize the fields that are organized now, the shoe will be simply put on the other foot. If you organize Kentucky and disorganize Indiana tomorrow morning the thing will be reversed and men from Kentucky can make the same argument you are making now. Until every mine is organized and a joint agreement reached covering them that is fair that will be true. There is the place the shoe is going to pinch the tightest. And, like a young lawyer who got his first instructions from that old Judge Harry Taylor mentioned, you have carefully picked out the point you are arguing from. When the young lawyer was going to take his first case the old judge advised him, "If you have
4838 a good case from the point of law, argue from the point of law. If you have a good case from the point of equity, argue from that point. And if you haven't either law or equity, wrap the American flag around you, wave it a couple of times and appeal to their patriotism."

94. The court erred in permitting plaintiffs over defendants' objections to introduce in evidence from the Joint Conference Proceedings of 1912, the following statement in debate of Mr. Chapman, an operator:

"When we met in Chicago in 1898 and reestablished the Interstate movement the competition from non-union fields

was the element, gentlemen, that entered into negotiations in the adoption of the scale that was made there. It was agreed to by both sides, and the question also of the ability of the miner to earn a fair day's wage for the labor he performed entered into it. At that time the miners were receiving 56 cents per ton for producing coal. I made motions in that convention that increased the day wage scale.

"It was understood in that convention, although it was not placed in the agreement, that the miners of the competitive field of the four states were to bring the non-union fields up to the price paid for mining in those states, and unless they secured the adoption of an eight-hour day at the next convention the competitive field was to be relieved of those burdens. That was not in the agreement. Unfortunately, gentlemen, the proceedings of that convention were not published. If they were published it would be found that the President of the United Mine Workers and the gentlemen who aided and assisted him in bringing about the results there agreed that they should be relieved.

4839 "The conditions that established this joint movement, gentlemen, were that justice, right and equity should be practiced on the part of the operators toward the miners on these questions; and, on the other hand, that the miners should treat the operators in the same manner, and the question of the prices of coal and the competition that existed were the sole questions that entered into the discussion there. We were there for weeks before we finally succeeded in accomplishing the results we did.

"Now, gentlemen, when you look at 1897 as compared with 1911 you will find the non-union states in competition with Ohio have increased their production. The state from which the keenest competition comes has increased its production 350 per cent, or 25 per cent annually for the fourteen years; and Ohio, the state that is the mother of the organization, the state whose operators have [every] been loyal to the organization, has increased barely ten per cent a year. That is the record for our state, while this one state has increased annually for the fourteen years, taking the average of 25 per cent, and more than double the output of Ohio coal."

95. The court erred in permitting the plaintiffs over the separate objections of the defendants to introduce in evidence from a volume purporting to be the Joint Conference Proceedings of the operators and miners for the Central Competitive Field for 1914, the statement therein of Mr. Maurer, an operator, as follows:

"But I want to tell you what this means. We have built up an industry in Ohio and we have built it up over the strongest competition any state of the four ever had. We built it up, boys, by your efforts and our efforts, your
4840 efforts in compelling your men, the members of your organization to give us a coal that will stand up on the great lakes in competition with any other man's coal, that will meet the competition of West Virginia, that will meet the competition of Kentucky. And you are entitled to credit for that. We found the market and worked for it and you gave us the coal that would meet that market's conditions. It is our industry—we built it up together.

"Four million tons of that coal alone from Eastern Ohio was marketed on the lakes, went to the docks in the Northwest, were distributed among the railroads. If you do not believe me when I tell you what the results will be, take the testimony of that old man who is the representative of the Omaha road, who has done more for the coal industry of Eastern Ohio than any combination of men ever did. I refer to McDonald, the inspector of the Omaha road. McDonald said: 'When Ohio coal is prepared as it is now it is a splendid coal; but it stands in the balance and if there is an degradation from its present stand and the Omaha Road alone will cut out 700,000 tons'. Gentlemen, these are not my statements; these are the statements of the man who nine years ago, when our representative at the head of the lake tried to sell him No. 8 coal, said they could not use it. That man afterwards was persuaded to come down here, and how many of you men have seen him around the mines in Eastern Ohio, calling out your pit committees, telling the, 'Now boys, if you persist in loading coal this way we cannot use it; but if you load it right we can.' He went around the mines this year, he picked out the mines that could ship coal to the Omaha Road and he picked out the mines that could not. Why? Because the men in those mines had not done their part of the work.

4841 "Now, gentlemen, take away the restriction, and not only four million tons of coal from Eastern Ohio will be out on the market, but coal from all over the state. It is a serious problem. We have done the best on our side of the house to prevent this crime being committted. If we were not for the peculiar use to which our coal is put there might be circumstances that would excuse it; but we stand here on the border land of West Virginia and Kentucky, where the owner of the property has absolute control of his mines, where the man who shoots his coal too hard or the man who loads

out the impurities or the man who does not obey the orders of the superintendent of the mine foreman has no appeal, he walks the plank."

"Eastern Ohio meets on the right hand side Pennsylvanie. Across the river to the southeast non-union West Virginia. Across the river to the south and southwest, Kentucky, again non-union, and that coal has to go into the markets that their coal goes into, and I want to say that if Mr. Green with all his ingenuity can find some system by which you could get more for your product than your competitors can, then he is very foolish to waste his time, for I am sure he could commend a very large salary with any of the coal companies who have been striving for years to arrive at that position."

96 The court erred in overruling the motion of the defendants to strike from the record each and every extract from the printed volumes purporting to contain the proceedings of the Jint Conferences of the Operators and Mines for the Central Competitive Field, introduced in evidence, said extracts being the extracts introduced in evidence and being heretofore referred to in previous assignments of error.

4842 97. The court erred in permitting the plaintiffs over the separate objections of the defendants to prove by the witness Bache in substance the contrasting conditions, from an economical point of view, between closed and open shop mines, and who testified in relation thereto, as follows: That in an open shop mine development work can be carried on not only while the mine is shipping coal, but during idle periods; that there is reluctance, if not prohibition by the union of letting miners work on idle days, whereas, without union conditions the miner can do certain work when the mine is shut down; that in open shops two and three miners work in one room, which in union mines is frequently objected to; that with the closed shop the miners do not go to work until a certain number of railroad cars are on the sidings and that often time is lost thereby; That the union miners object to the use of machines and establish so small a differential between the machine hand mining as to interfere with the employment of machines.

98. The court erred in permitting the plaintiffs to prove over the separate objections of the defendants, by the witness Bob Bly statements made to him at the stockade of the plaintiff companies about July 17, 1914, by Arthur Cooper and Jim Meeks, employes of the plaintiffs, that they were looking for trouble and the witness "should go home," the

said Meeks and Cooper not being defendants or charged with being parties to said conspiracy.

99. The court erred in permitting plaintiffs over the separate objections of the defendants to introduce in evidence Exhibit 6 to the deposition of Charles L. Rierson, said Exhibit No. 6 being as follows:

4843 "Rem.—U. M. C. Co.,
299 Broadway,
New York, N. Y.

Gentlemen:

You will notice on my expense account for this week that I have entered entertainment expense while at headquarters on Wed. and Saturday but this expense was absolutely necessary inasmuch as I was compelled to entertain the superintendent of the Federation of Labor of this district. The Auto. Rifles sold this week were for the Federation of Labor and this transaction must be kept absolutely secret as in case these operators in this coal field were to find that I had sold rifles to the miners they would cut me off their list when it came time to stock their stores.

It is only a question of time until this section will be under martial law and would suggest that you acknowledge receipt of no orders in this territory for at least sixty days. Will see that both sides are supplied with Rem.—U. M. C. products but do not want to be caught in the deal.

Yours very truly,

H. B. HILL."

"(Mr. Adams—Kindly treat this in strict confidence.

C. L. REIERSON.)"

100. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence Exhibit No. 7 attached to the deposition of Charles L. Rierson, said exhibit being a letter as follows:

"June 19, 1914.

"Mr. H. B. Hill,
Hayden Sporting Goods Co., McAlester, Ark.

Dear Sir:

4844 We acknowledge your letter of June 14th in regard to Autoloading rifles sold for the use of the American Federation of Labor. We were just about to write you in reference to this matter when we received your night letter yesterday morning ordering ten rifles Model #14 and a quantity of

ammunition for same. Realizing the great danger of your being too active in matters of this kind, we at once sent you a day letter instructing you to discontinue such activity, and later in the day received your telegram advising that these matters had been handled through the salesmen representing the jobbers. This reassures us and makes us feel better.

Your letter of the 4th indicates that you apparently realize the risk of antagonizing the operators in the local field. It would be a serious matter if this should come about. We appreciate your anxiety for business and are just as anxious to have business as we ever were, at the same time we do not think it wise to run serious risks to get it.

There is another side to the matter. We cannot afford to antagonize the Federation of Labor. Such antagonism might extend to the point of having these people black list our goods. This might very easily extend to other labor organizations and would be a very serious affair for us. Moreover, we are large employers of labor ourselves and are very careful in matters of this kind not to give organized labor an opportunity to criticise us.

It is a different matter for a jobber's salesman to be active in a case of this kind as the jobber has not so much at stake. Moreover, it is difficult at times to connect a jobber with matters of this kind whereas there is no escape for us. The jobber handles all lines of goods while we have only our line to depend upon.

4845 We hope you will continue to use the greatest discretion in this matter and that you will not permit yourself or us to be known in connection with the transactions that have already taken place.

We have your telegram this morning ordering some 45/70 cartridges and same will be given prompt attention.

Yours very truly,

REMINGTON ARMS-UNION METALLIC CARTRIDGE CO.

C. E. Reierson,
General Sales Manager."

Clr/FEW"

101. The court erred in permitting the plaintiffs to introduce in evidence over the objections of the defendants exhibits 1 to 5, attached to the deposition of Charles L. Reierson, said exhibits being as follows, to-wit:

"June 10, 1914.

H. B. Hill,

C/o Hayden Sporting Goods Co.,
McAlester, Okla.

Telegram received Expressing today auto rifles to John Mastell Hartford Arkansas.

REMINGTON ARMS-UNION METALLIC CARTRIDGE CO.

Night Letter
GEP-P"

Exhibit No. 2

"New York, N. Y. June 10, 1914.

Mr. H. B. Hill,
C/o Hayden Sporting Goods Co.,
McAlester, Okla.

Will ship at once ten Autoloading rifles twenty-five calibre.

REMINGTON ARMS-UNION METALLIC CARTRIDGE CO.

AFH/FEW"

4846

Exhibit No. 3.

"Jobber Atkinson Williams Hdw. Co.,
Address Ft. Smith, Ark.

Ship to John Mastell,
Shipping point Hartford, Ark.

How) Ship)	Express from factory	When) ship)	At once
Quantity	Items		Price
10	Rem. UMC No. 8 A Auto Rifles 25-25 Cal.		

This order telegraphed to company.

Please ship the above goods as specified.

Do Not Substitute. If goods are not in stock please order from the Remington-U. M. C. Co., 299 Broadway, N. Y.

This order is subject to acceptance of Jobber named.

Signature of Purchaser) Federation of Labor. (Holt)
Signature of Salesman) H. B. Hill."

Exhibit No. 4.

"June 10, 1914.

"Mr. H. B. Hill,
C/o Hayden Sporting Goods Co.,
McAlester, Okla.

Dear Sir:

We received your telegram of even date requesting us to ship by express to John Mastell, Hartford, Ark., ten #8A Autoloading Rifles, 25 calibre, charging same to the a/c of Atkinson-Williams Hdwe. Co., Ft. Smith, Ark., and in compliance with your wishes, we wired you today as follows:

"Telegram received. Expressing today auto. rifles to John Mastell, Hartford, Ark."

4847 Thanking you for this order, and trusting that the rifles will reach your customer promptly, we are

Yours truly,

REMINGTON-ARMS-UNION METALLIC CARTRIDGE CO.

GEP-p." Per

Exhibit No. 5.

"June 10, 1914.

"Jobber Atkinson Williams Hdw. Co.
Address Ft. Smith, Ark.
Ship to John Mastell
Shipping point Hartford, Ark.

How) Ship)	Express	When) ship)	At once.
Quantity	Items		Price
8	Rem. U. M. C. Co. No. A Auto Rifles 25-35-30-32 Cal.		
2M	Rem. U. M. C. Ct. go for above. M. C.		

This order telephoned to jobber.

Please ship the above goods as specified. Do Not Substitute. If goods are not in stock please order from the Remington U. M. C. Co. 299 Broadway, N. Y.

This order is subject to acceptance of Jobber named.

Signature of Purchaser) Federation of Labor. Holt.

Signature of Salesman) H. B. Hill."

102. The court erred in permitting the plaintiffs over the objections of the defendants to introduce in evidence exhibits 8 and 9 attached to the deposition of Charles L. Reierson, the same being as follows:

"Date June 17th, 1914.

Jobber Atkinson Williams Hdw. Co.

4848 Address Ft. Smith, Ark.

Ship to Oscar Layton
Shipping Point Hartford, Ark.

How) Ship) Express. When) Ship) At once.

Quantity	Items	Price
10	Rem. U. M. C. No. 14 A Rep. Rifles 25 Cal.	
3M.	" " " " " Ctgs. 25 Rem. Auto. M. C.	
1M.	" " " " " " 30 " " " "	
1/2M.	" " " " " " 35 " " " "	
1/5M.	" " " " " " 32 " " " "	

This order given to H. E. Morgan.

Please ship the above goods as specified. Do not substitute.

If goods are not in stock please order from the Remington U. M. C. Co. 299 Broadway, N. Y.

This order is subject to acceptance of Jobber named.

Signature of Purchaser) Oscar Layton
Signature of Salesman) J. B. Hill."

Exhibit No. 9.

"Date June 17th, 1914.

Jobber Atkinson Williams Hdw. Co

Address Ft. Smith, Ark.

Ship to John Mastell.

Shipping Point Hartford, Ark.

How) Ship) Express. When) Ship) At once.

Quantity	Items	Price
4	Rem. U. M. C. No. 8A Auto Rifles 30 Cal.	
4/5M.	" " " Ctgs. 30 Rem.-M. C.	
1M.	" " " " 45-70 Springfield M. C.	

4849 This order given to H. E. Morgan.

Please ship the above goods as specified. Do Not Substitute. If goods not in stock please order from the Remington-U. M. C. Co. 299 Broadway, N. Y.

This order is subject to acceptance of jobber named.

Signature of Purchaser) J. Mastell.
Signature of Salesman) H. B. Hill."

103. The court erred in permitting the plaintiffs over the objections of the defendants to introduce in evidence exhibits 10 and 11 attached to the deposition of Charles L. Reierson, the same being as follows:

Exhibit No. 10.

"McAlester, Okla., June 18-14 210p

To Remington Arms Union Metallic Cartridge Co.,
299 Bway, NYC.

Have used proper precaution all previous matters through Jobbers salesman.

H. B. Hill."

Exhibit No. 11.

"New York, June 18, 1914.

Mr. H. B. Hill,
Hayden Sporting Goods Co..,
McAlester, Okla.

Telegraphic order model fourteen rifles and ammunition received. You are in great danger of comprising us with other faction which would be serious matter. Therefore must instruct you to discontinue personal activities in matter. Of course we will fill without question orders received from
4850 jobbers but think best to let jobbers' salesmen handle matter as do not feel it wise for you as our representa-

tive to be known in connection with it. Therefore must instruct you govern yourself accordingly. Writing fully.

REMINGTON ARMS-UNION METALLIC CARTRIDGE CO.
C. L. Reierson, General Sales Manager.

Day letter.
CLR/FEW"

104. The court erred in overruling the motion of defendants to strike from the record Exhibits 1 to 11, inclusive, attached to the deposition of Charles L. Reierson, and each of said exhibits being set out in the assignments just preceding.

105. The court erred in permitting the plaintiffs to prove on cross examination by the witness John P. White, and as President of the United Mine Workers that more than a year after the institution of this suit, he had appointed Peter Stewart temporary officer of District Twenty-One.

106. The court erred in permitting the plaintiffs over the objections of defendants to prove by the witness G. C. Choate that in December, 1914, and after the institution of the suit he had served as a guard in moving an engine to the Coronado mine and that several men gathered about them and hollered "scabs", and that they continued gathering around him until along about 11.30 and they all dispersed.

107. The court erred in permitting the plaintiffs over the objections of the defendants to prove by the witness C. A. Shaleen that while he was serving as Deputy Marshal at the plaintiffs' mines from November 18, 1914, to February 3, 1915, while he and the other guards were at the mine about 10 o'clock at night, three or four soldiers came over there with a man
4851 who had been beaten up who was in their camp.

108. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence exhibits 1, 2, 3, and 4 to the deposition of witness H. B. Hill, the same being the exhibits 1, 2, 3 and 4 to the deposition of Charles L. Reierson, and being referred to in assignment No. 101.

109. The court erred in permitting plaintiffs over the objections of defendants to introduce in evidence exhibits 5 and 6 to the deposition of H. B. Hill, heretofore referred to in assignments Nos. 101 and 99, respectively.

110. The court erred in permitting the plaintiffs over the objections of defendants to prove by the witness Frank M. Morgan that he was a Deputy Marshal stationed at the prop-

erty of one of the Plaintiffs at Prairie Creek in January, 1915, and that when certain of plaintiffs' employes had gone to the station to get freight three-quarters of a mile from the camp a lot of men were there and seemed to want to crowd around where the men were receiving the freight; that one man by the name of Johnson was quarreling and the witness stepped up and put his hand on his shoulder and said the United States was no respecter of persons and that Johnson said the fellow raised the fuss with him, and someone back in the crowd said "shoot the marshal" to which the witness paid no attention, and that this fellow quietly walked off and witness did not see him any more.

11. The court erred in permitting the plaintiffs over the objections of defendants to prove by the witness Sid Johnston that he was a Deputy Marshal in October, 1914, at the Prairie Creek mines and that on the 26th of October he left the 4852 mine about dark because after taking in the situation and one thing and another around there, he decided he did not want to stay, and walked to Hartford and came home.

112. The court erred in permitting the plaintiffs to prove by the witness M. W. Weston, over the objections of the defendants, that on the 28th. of October, 1914, he was at Hartford and heard that they were going to "clean up" again and drove down to the mine and told the boys to hurry up and get away home as soon as they could.

113. The court erred in permitting the plaintiffs over the objections of the defendants to prove by the witness Heber Denman what loss or destruction of property was incurred by the Dallas mine.

114. The court erred in permitting the plaintiffs over the objections of defendants to prove by the witness Heber Denman the loss sustained at the Hoffman mine.

115. The court erred in permitting the plaintiffs to prove over the objections of the defendants, by the witness Heber Denman, the damage and loss sustained by Mammoth Vein Coal Mining Company.

116. The court erred in permitting Heber Denman, a witness for the plaintiffs, to testify over the objection of the defendants that the leasehold used by Mammoth Vein mine No. 6 was on July, 1914, of the reasonable value of Two Hundred Thousand Dollars.

117. The court erred in permitting Heber Denman a witness for plaintiffs, to testify over the objections of defendants, that the leasehold occupied by Mammonth Vein Mine No. 6 was on March 10, 1915, of the reasonable value of Two Hundred Thousand Dollars.

4853 118. The court erred in permitting Heber Denman, a witness for the plaintiffs, over the objections of defendants, to testify that the leaseholds operated in connection with Prairie Creek mines Nos. 3 and 4 were in July, 1914, and on March 10, 1915, of the reasonable value of Two Hundred Twenty-five Thousand Dollars.

119. The court erred in permitting Heber Denman a witness for the plaintiffs, to testify over the objections of the defendants that the leaseholds operated by the Coronado Coal Company were in July, 1914, and in September, 1915, of the reasonable value of Fifty Thousand Dollars.

120. The court erred in permitting Heber Denman, a witness for the plaintiffs, over the objections of the defendants to testify that if the plaintiffs had been able to operate their respective mines from October 1, 1916, to November 1, 1917, these mines would have made a net profit of Six Hundred Thousand Dollars and still have the property remaining.

121. The court erred in permitting the plaintiffs' witness Heber Denman, over the objections of the defendants, to testify that the plaintiffs would not have lost any money previous to 1916, but that he made his computation, in order to be certain by allowing that they would lose from the period of 1914 up to October, 1916, the same average amount per ton that the report showed they had lost previous to that time, seven cents a ton; that the witness estimated that loss to be Forty-two Thousand Dollars and that he deducted that from his estimate, leaving approximately Six Hundred Thousand Dollars net profit after 1916 to November 1, 1917.

122. The court erred in permitting plaintiffs' witness Heber Denman to testify over the objection of the de-
4854 fendants that the increase in wages since April, 1914, to May 1917, would have added about 16 cents a ton to the cost of mining coal.

123. The court erred in permitting the plaintiffs' witness Heber Denman over the objections of defendants, to testify that the increase in the cost of materials after 1914 would have been about fifty percent.

124. The court erred in permitting the plaintiffs' witness Heber Denman over the objections of defendants' to testify that he estimated that on October 1, 1916, based on what coal cost in 1913, and adding the increase in cost of wages and materials, that it would have brought the cost of production up to $1.92 a ton.

125. The court erred in permitting the plaintiffs' witness Denman to testify over the objections of defendants, that considering the increased cost of price of producing the coal and the increased selling price of coal that at May 1, 1917, they would have had a profit of 98 cents a ton on the coal produced.

126. The court erred in permitting the plaintiffs' witness Heber Denman to testify over the objections of defendants, that the current price of coal between May 1, 1917, and August 1, 1917, was about $3.40 a ton and that their profit during that period would have been about $1.10 a ton.

127. The court erred in permitting the plaintiffs' witness Heber Denman to testify, over the defendants' objections that estimating the capacity of all of plaintiffs' mines at three thousand tons a day and calculating the net profits which might have been derived in 1916 and 1917, and taking about 18 days a month, that they would have made
4855 $250,000.00 a month.

128. The court erred in permitting the plaintiffs' witness J. B. King to testify over the objections of defendants, that he could produce coal 17 cents a ton cheaper while operating with non-union labor than he could operating with union labor.

129. The court erred in permitting the plaintiffs to introduce in evidence over the defendants' objections plaintiffs' exhibit 157 which was a lease contract executed June 28, 1917, between Finley and Hilliard, Receivers of the Mammoth Vein Coal Company and the Mammoth Vein Royalty Company and W. H. Mielmeir, showing that the minimum royalty on the coal mined under said lease was fifty cents per ton.

130. The court erred in permitting the plaintiffs over the objections of the defendants, to introduce in evidence the expense account of James Mullen, being Exhibit No. 190 showing under date of April 3, 1914, railroad fare Ft. Smith to Midland, 75 cents; April 4th, railroad fare Midland to Kansas City, $11.05; hotel $3.00; April 5th, 6th and 7th, hotel

bill at Kansas City $3.50 each day; April 8th. railroad fare Kansas City to Ft. Smith, $11.05; livery $1.00; hotel $3.00; April 9th. hotel at Ft. Smith, $3.00; April 10th. railroad fare Ft. Smith to Kansas City, $11.05; hotel $3.50; for the 11th, 12th, 13th, 14th and 15th. hotel at Kansas City, $3.50.

131. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence from their Exhibit 191, certain detailed items of expense of P. R. Stewart, President of District Twenty-one, from the financial report of the Secretary of the District, said items showing
April 3rd. railroad fare St. Louis to Kansas City,
4856 $5.50; hotel $2.50; 4th. and 5th. hotel $5.00; 6th. and 7th. hotel $2.50 each day; April 8th. railroad fare Kansas City to Ft. Smith, $10.30; Hotel $2.00; 9th. Kansas City to Ft. Smith, $10.30; hotel $2.50; April 10th. Ft. Smith to Kansas City $10.30; hotel $2.50; 11th, 12, 13, 14 and 15th. Hotel $2.50 each day.

132. The court erred in permitting the plaintiffs over the defendants objections, to introduce in evidence from the minutes of the Executive Board of the United Mine Workers of America, May 4th, to 8th, 1914, the following:

"First Day.

Indianapolis, Monday, May, 4, 1914.

"Morning Session.

The meeting of the International Executive Board was called to order at 10:00 o'clock a. m., President John P. White in the Chair.

"Absent: Board Members Haggerty, Lawson, Rees and Harrison." ******

"President White: Another matter I want to mention to the Board before we adjourn. I have a few matters here I wanted to state, in order that my action might be known to the Board officially and the Board would have the information that they ought to have in a brief way. Several weeks ago, or rather more than two months ago, I guess it was, a suit was instituted in the southwest by a man by the name of Bach, a member of the Bach-Denman Coal Company, against the President of the Southwestern Interstate Coal Operators' Association, Charles S. Keith, in which he demanded an accounting of the funds of the Southwestern Coal Operators' Association. **********

"Well, that was all the object this man Bach had in mind, was to procure the information."

4857 "When he secured this information, he immediately went down to Arkansas and started to run his mine non-union. The boys simply marched in on him in a day down there and kicked his Colorado guards out of there and broke their jaws and put the flag of the United Mine Workers on top of the tipple and pulled the fires out of the boilers, and that was all there was to it, and the miners have been idle in there ever since. I do not say that our boys did this, but I mean the people from all through that country marched in and stopped the work, and when the guards offered resistance, several of them were roughly handled, but no lives lost, as I understand it."

133. The court erred in permitting the plaintiffs over defendants' objections, to introduce in evidence extracts from the Executive Board minutes of the United Mine Workers of America, as follows:

"Minutes
of
International Executive Board
U. M. W. of A.

Indianapolis, Indiana, November 30, 1914.

The Board was called to order at 10 o'clock a. m., Monday, November 30, President John P. White in the chair.

Vice President Hayes, Secretary Green and all the members of the Board were present."

"Arkansas.

"Legal Advice in Damage Suits.

"President White: Federal troops are in control of a certain section of Arkansas as a result of violence that has taken place. A Federal Judge down there got the troops, as I understand it, on the ground that contempt was be-
4858 ing practiced upon his court. Some time ago a large number of indictments were secured against members of the United Mine Workers, some of the officers of District No. 21; I think some of them received sentences of four or five months, but the sentences have been suspended. The grand jury has been in session since, and I think they rounded up some 26 indictments in Judge Youmans' court. The lawyer in charge, Mr. Covington, sent me a communication in connection with this matter, asking me to have it sub-

mitted to some attorney accustomed to dealing with similar cases for the United Mine Workers, in order to get his opinion."

"Mines down there were destroyed absolutely following the attempt of the Bache-Denman Coal Company to operate their mines non-union. They were formerly operated under the contract of District No. 21."

134. The court erred in permitting the plaintiffs over the separate objections of the defendants to introduce in evidence an indictment against James Slankard and other defendants in this cause, and others not defendants herein, charging them with a conspiracy to obstruct justice in the Federal Courts in regard to interference with the injunctive process and receivership issued by and pending in the Federal Court for the Western District of Arkansas in regard to the plaintiff companies herein.

135. The court erred in permitting the plaintiffs over the objections of the defendants to introduce in evidence extract from the minute book of Local 1526 under date of January 5, 1915, as follows:

"Moved and seconded that James McNamara go on the tipple as check-weighman."

136. The court erred in permitting the plaintiffs over
4859 defendants' objections to introduce in evidence extract from the minute book of Local 1526 showing that James McNamara was elected Financial Secretary January 8, 1915.

137. The court erred in permitting the plaintiffs to introduce in evidence over defendant's objections extract from the minute book of Local No. 1526 of date of January 22, 1915, showing that it was moved and seconded that the President appoint a committee to take up a collection at the office for the benefit of the boys in Fort Smith.

138. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence an extract from the minute book of local No. 1526 of January 22nd, 1915, showing that it was moved and seconded that a circular letter be sent out asking for aid for the members and families in need.

139. The court erred in permitting the plaintiffs to introduce in evidence over defendants objections an extract from the minute book of Local No. 1526 of January 29, 1915,

relating to a petition to "get the boys out of jail" and to see about taking care of their families, and so much of said minute book as contained a report of the committee showing $44.90 had been raised "for the boys in jail" and so much thereof as showed an assessment to aid the families "of the boys in jail".

140. The court erred in permitting the plaintiffs over the defendants' objections, to offer in evidence extracts from the minute book of local 1526 of June 25, 1915, showing the appointment of Brothers John Patty and Will Smith on a special committee for collecting "for the boys in jail".

141. The court erred in permitting the plaintiffs
4860 over defendants objections to introduce in evidence from the minute book of the Local union at Huntington, Arkansas, the following entry:

"Moved and seconded that the recording secretary post notice and notify all of the members that the question of assessing ourselves to assist our brothers in jail at Ft. Smith. Moved and seconded we appoint a brother to assist the financial secretary in collecting dues."

142. The court erred in permitting the plaintiffs over defendants' objections to introduce in evidence from the report of E. F. Ross, Secretary-Treasurer of District Twenty-one, from October 1, 1916, to March 31, 1917, an entry under the title "Pension Expenses" as follows:

"James Crossley, Hartford, Arkansas, $78.00".

143 The court erred in permitting plaintiffs over the objection of defendants to introduce in evidence entries from the docket of the United States District Court for the Western District of Arkansas, showing pleas of guilty, sentences and payment of fines in prosecution upon indictments against James Slankard, et al. for conspiracy to commit an offense against the United States.

144. The court erred in permitting the plaintiffs over the objections of defendants to introduce and read in evidence from the records of the United States District Court for the Western District of Arkansas, Fort Smith Division, June term, 1914, the attachment for contempt against Sandy Robinson.

145. The court erred in permitting the plaintiffs over the objections of defendants, to introduce in evidence the records of the United States District Court for the Western

District of Arkansas, June term, 1914, showing attachment for contempt of Peter R. Stewart, and that he was sentenced to imprisonment in the Sebastian County jail therefor.
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146. The court erred in permitting the plaintiffs over the objections of defendants to introduce in evidence the record of said court showing the attachment of John Manick for contempt and that he was sentenced thereunder for the term of four months in the County Jail of Sebastian County, Arkansas, and also so much of the record of said court showing that judgment against Pink Dunn in attachment for contempt, finding said Dunn guilty and sentencing him to imprisonment in the Sebastian County jail at Fort Smith for a period of four months. And also so much of said record as showed judgment of said court against George Burnett in attachment for contempt and the sentencing of him to imprisonment in the Sebastian County jail for a period of four months. And also a similar judgment from said records against Frank Gripando showing him sentenced to four months imprisonment in the County jail at Ft. Smith.

147. The court erred in overruling the motion of the defendants United Mine Workers of America, John P. White and John P. White as President of the United Mine Workers of America, Frank J. Hayes and Frank J. Hayes, Vice President of the United Mine Workers of America, William Green and William Green as Secretary-Treasurer of the United Mine Workers of America, and each of them, the said motion being submitted in writing at the conclusion of the introduction of all the evidence in said cause, being a motion to the court to instruct the jury to return a verdict for said defendants and each of them.

148. The court erred in overruling the motion of P. R. Stewart, as President of the United Mine Workers of America, District No. 21; Fred Holt; William McLaughlin, and William McLaughlin as President of United Mine Workers of District No. 21; Tom King, and Tom King, as Board Member of United Mine Workers of America; Edward Cunningham and Edward Cunningham as President of District No. 21, United Mine Workers of America; Local Union 340, United Mine Workers of America; Local Union No. 560 United Mine Workers of America; Local Union No. 1130, United Mine Workers of America; Local Union No. 1526, United Mine Workers of America; Local Union No. 1530, United Mine Workers of America; Local Union No. 1565, United Mine Workers of America; Local Union No. 1810, United Mine Wor-
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kers of America; Local Union No. 1814 United Mine Workers of America; Local Union No. 1842, United Mine Workers of America; Local Union No. 1912, United Mine Workers of America; Local Union No. 1934, United Mine Workers of America; Local Union No. 2027, United Mine Workers of America; Local Union No. 2053, United Mine Workers of America; Local Union No. 2110, United Mine Workers of America; Local Union No. 2160, United Mine Workers of America; Local Union No. 586, United Mine Workers of America; Local Union No. 2494, United Mine Workers of America; Local Union No. 2766, United Mine Workers of America; Local Union No. 2769, United Mine Workers of America; Local Union No. 2770, United Mine Workers of America; Local Union No. 2772, United Mine Workers of America; Local Union No. 2841, United Mine Workers of America; and Local Union No. 2880, United Mine Workers, and of each of them submitted at the conclusion of the introduction of evidence in said cause and asking the court to instruct the jury to return a verdict for said defendants and each of them.

149. The court erred in its instruction to the jury concerning the issues joined in said cause in refusing to inform
4863 and charge the jury, as requested by defendants, that the issue was presented by the answer of defendants that if there was a conspiracy as alleged in the complaint, between the union miners and the coal operators employing union men, to interfere with the production and commerce of non-union coal, that the plaintiffs had been parties to and had participated in said conspiracy and by reason thereof were not entitled to recover.

149. The court erred in that part of his general charge to the jury in which he charged the jury as follows:

"You are instructed that the plaintiffs contend, and have introduced evidence that, in the judgment of the court, tends to support the claim that the United Mine Workers of America are one organization, that every united mine worker is a member of the National organization; That the National organization consists of all of the union mine workers of America, that the locals are only instrumentalities of the main organization, having no power except such as is given it by the head organization; that the district is a creature of the main organization, of the International, or National organization, as we may call it; that both the districts and the locals are entirely within the control of the officers, and especially the President and Board of Control of the National assoliation.

That the National Board and its President granted the charters for the district, that they have the right to cancel the charter, and take it away; that they grant the charter, for the local, that they are clothed with the entire power of discipline of the individual, and that the controlling power is vested entirely in the National association; that the power of dismissal of an individual is in the National Associa-
4864 tion; that no power is given by the constitution of the local or the district that is not superseded by a reservation of the power of the central organization. They then follow that with evidence, which was for the purpose, at least, of showing to your satisfaction that there has for years been concerted action on the part of the National organization, its officers and members, down through the districts and the locals and the membership, permitting the idea and motive that it was necessary, in order to protect the union workers in fields already unionized, to unionize the non-union fields, as well as hold those that were already unionized, and the plaintiffs insist that their evidence tends to show that this was the universal conviction indulged in by all of these miners in this union, and enforced by the National organization down through the districts and locals to the individual miner himself, upon the part of the National organization, in whom the power was vested.

That the policy developed, joined in by the officers of the National association representing the entire association, including the districts and locals and individual memberships, of an extent and purpose to prevent the mining of non-union coal by non-union men, and to prevent the interstate commerce of coal mined by non-union men, and to prevent its shipment, and to prevent its traffic, and they insist further, that the strike is one of the legitimate purposes, one of the main puposes for which this organization was constituted. A strike is one of the purposes named in the constitution of the National organization; that the right to strike and to con-
duct strikes is a provision of the district and local con-
4865 stitutions. That, however, the right to strike, sererved only in cases such as this here, involving less than a majority of miners of a particular district, may be called by a local board, yet the plaintiffs insist that they have shown by the records here that the supreme control, regardless of that right, is in the National body; that that is the only permission, and that the National body can at any time stop a strike; that they have the only controlling power, because they have all of the power of discipline; that they have the power, the National organization, or the Board, or the President; the

President perhaps, and certainly the Board and President, they contend, have the right to take away the charter of the offending district, the entire district, and sever it from the organization, and take away the charter of the offending local, and dismiss the offending individual member, and therefore the plaintiffs contend that the entire control is in the National Board, and that whatever is done is done under their control. They contend further that they have introduced evidence tending to show that what may be done in the way of conducting a strike is something that is done along lines that are authorized by their constitution, and that the strike in this particular instance, where it comes down to affecting the particular property of this plaintiff, was a strike called and put into force and operation and conducted for the purpose which they said, and to which I have referred, existing down through the years and was participated in by all of this organization, with the intent and purpose to prevent this non-union mining of
of coal, the transportation of non-union mined coal, the
4866 sale and interstate commerce of non-union mined coal,
and that they have introduced evidence that they say tends to show that this was not only this strike here in Prairie Creek, for instance, like other local strikes in other local fields, was not for the benefit of the local field alone, because they allege that this coal mined in this field here went into competition in large territories, and you will find by reference to the complaint the territory that they refer to, and therefore went into competition with union mined coal, and thereby the strike was not for the benefit, as they claim, of a local mine, but was to prevent, or was part of the scheme to prevent, the mining of non-union coal, to prevent interstate commerce in non-union coal, and to put it on the market of the different states, to put it in competition with coal mined by miners in other state and in other districts.

That the entire purpose of the National organization in the protection of its membership was served in this and other strikes of its kind in that it prevented miners in all parts of the United States mining coal, that came in competition legitimately with the coal mined non-union, and protected them, and protected their interests, and that their interests were pecuniary.

Now they have introduced evidence further that they say tends to show, and it is for you to say whether or not it does show, by a fair preponderance of the evidence, that a strike was called, and in that connection I may say to you that the plaintiffs urge that this evidence shows, that when

4867 that strike was called by the locals there, or by the District 21, that such act was the act of the National organization; that this District 21, and the locals, were merely instrumentalities carrying forward the aim and the object and the purpose, as they say, and as I have outlined it, existed, and had long existed, to prevent the mining of non-union coal, and the shipment into interstate commerce of non-union coal, and therefore they say that the acts of these men, when they declared the strike, was the acts of the International organization; that it was serving the purpose of the organization in the manner provided and outlined by the organization, and that there is evidence here that they could not have acted independent of the National organization, because the National organization,—, for the reason that they claim that they have shown,—that the National organization was supreme in any and all of these matters.

Now, that being true, they have introduced testimony that tends, as they say, to show that this organization, that this strike was carried on in an unlawful way, and the court desires to say to you here that there is nothing wrong in a strike; that there is no element of crime in peaceable strike. A man has a right to refuse to work for you at any time, and under any circumstances, unless he has a contract with you, and then it would be a violation of a civil right, and not a criminal one. The right of the union miners to strike can not be questioned. The only question is this, gentlemen, and the plaintiffs introduced evidence tending to show that this strike was called, finding no fault with the miners, as long as no violence was used. They say, however, that the acts of those strikers are the acts of the National association, and

4868 that the strike itself was called for the purpose of preventing this mining of coal by non-union men, and that it was called for the purpose of preventing the shipment in interstate commerce of that coal, and for the purpose of preventing the sale of the coal in interstate commerce in competition with union mined coal. Now, if they have shown you, by a fair preponderance of the evidence, that that was the purpose and that was the intent and that intent permeated the entire organization, then they become liable for damages, only because of a peculiar statute,—or a special statute; a comparatively recent statute, in which the United States Congress has declared that if men unite in an unlawful purpose and interfere with interstate commerce, then that persons who have been injured may recover damages in the ratio that I referred to when I read the complaint.

Now, the plaintiffs say that the defendants then by virtue of this unlawful agreement to interfere with interstate commerce, were responsible in a manner, and that they were all responsible, for the reasons that I have suggested to you, and that they called this strike and that the strike was for this unlawful purpose, and that this strike, being put into force and operation by the defendants, gathered so much more force, and became so much of a menace, that it was the duty of those responsible for putting it into effect to have controlled it; that despite the power of the National organization to have controlled it, after they claim notice was given of the condition that existed in Prairie Creek, of violence, they allege, and have introduced evidence that they say tends to show, that nothing was done by those in authority, and as a matter of law you are informed that the court is of the opinion that if you believe that this National organi-
4869 zation had the authority, that they had the supreme power, that they had the power of discipline, that this strike was called pursuant to the policy and the purpose of the National organization, that it was for the unlawful purpose claimed by the plaintiffs herein, then the court is of the opinion that they were bound to exercise that power, and that they were bound to see that the strike was conducted without injuring any others, because if the strike was conducted for the unlawful purpose prohibited by the statute, to which I have referred, then any injury that resulted from the conduct of that strike, for that unlawful purpose, comes within this statute, and gives plaintiff the right to recover because of the statute."

150. The court erred in refusing to give instruction No. 1 requested by the United Mine Workers of America in writing as follows:

"You are instructed that under the proof in this case the Coronado Coal Company has failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for the defendant as against that plaintiff."

151. The court erred in refusing to give instruction No. 2 requested by the United Mine Workers of America in writing, as follows:

"You are instructed that under the proof in this case the Denman Coal Company has failed to establish a cause of action against the United Mine Workers of America, and

your verdict must be for that defendant as against that plaintiff."

152. The court erred in refusing to give instruction No. 3 requested by the United Mine Workers of America in writing, as follows:

4870 "You are instructed that under the proof in this case the Mammoth Vein Coal Company has failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for that defendant as against that plaintiff."

153. The court erred in refusing to give instruction No. 4 requested by the United Mine Workers of America in writing, as follows:

"You are instructed that under the proof in this case the Bache-Denman Coal Company has failed to establish a cause of action against the United Mine Workers of America and your verdict must be for that defendant as against that plaintiff."

154. The court erred in refusing to give instruction No. 5 requested by the United Mine Workers of America in writing as follows:

"You are instructed that under the proof in this case the Hartford Coal Company has failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for that defendant as against that plaintiff.

155. The court erred in refusing to give instruction No. 6 requested by the United Mine Workers of America in writing as follows:

"You are instructed that under the proof in this case the Sebastian County Coal Company has failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for the defendant as against that plaintiff."

156. The court erred in refusing to give instruction 4871 No. 7 requested by the United Mine Workers of America in writing as follows:

"You are instructed that under the proof in this case the Mammoth Vein Coal Mining Company has failed to establish a cause of action against the United Mine Workers of America and your verdict must be for that defendant as against that plaintiff."

157. The court erred in refusing to give instruction No. 8 requested by the United Mine Workers of America in writing as follows:

"You are instructed that under the proof in this case the Mammoth Vein Royalty Company has failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for that defendant, as against that plaintiff."

158. The court erred in refusing to give instruction No. 9 requested by the United Mine Workers of America in writing as follows:

"You are instructed that under the proof in this case the Prairie Creek Coal Mining Company has failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for that defendant as against that plaintiff."

159. The court erred in refusing to give instruction No. 10 requested by the United Mine Workers of America in writing as follows:

"You are instructed that under the proof in this case the Receivers, C. H. Finley and H. P. Hilliard have failed to establish a cause of action against the United Mine Workers of America, and your verdict must be for that defend-
4872 ant as against that plaintiff."

160. The court erred in refusing to give instruction No. 1 requested by the defendant, District Twenty-one, in writing, as follows:

"You are instructed that under the proof in this case the Hartford Coal Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant, as against the plaintiff."

161. The court erred in refusing to give instruction No. 2 requested by the defendant, District Twenty-one, in writing as follows:

"You are instructed that under the proof in this case the Sebastian County Coal Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant, as against the plaintiff."

162. The court erred in refusing to give instruction No. 3 requested by the defendant, District Twenty-one, in writing as follows:

"You are instructed that under the proof in this case the Mammoth Vein Coal Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant, as against the plaintiff."

163. The court erred in refusing to give instruction No. 4 requested by the defendant, District Twenty-one, in writing as follows:

"You are instructed that under the proof in this case the Mammoth Vein Royalty Company has failed to es-
4873 tablish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendants as against that plaintiff."

164. The court erred in refusing to give instruction No. 5 requested by the defendant, District No. 21 of the United Mine Workers of America, in writing as follows:

"You are instructed that under the proof in this case the Prairie Creek Coal Mining Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant as against that plaintiff."

165. The court erred in refusing to give instruction No. 6 requested by the defendant, District Twenty-one, in writing as follows:

"You are instructed that under the proof in this case the Receivers C. H. Finley and H. P. Hillard have failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant as against the plaintiff."

166. The court erred in refusing to give instruction No. 7 requested by the defendant, District Twenty-one, in writing as follows:

"You are instructed that under the proof in this case the Coronado Coal Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant as against that plaintiff."

167. The Court erred in refusing to give instruction No. 8 requested by the defendant, District No. 21, in writing as follows:

4874 "You are instructed that under the proof in this case the Denman Coal Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant as against that plaintiff."

168. The court erred in refusing to give instruction No. 9 requested by the defendant District No. 21, in writing as follows:

"You are instructed that under the proof in this case the Mammoth Vein Coal Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant as against that plaintiff."

169. The court erred in refusing to give instruction No. 10 requested by the defendant District No. 21, in writing as follows:

"You are instructed that under the proof in this case the Bache-Denman Coal Company has failed to establish a cause of action against District No. 21 of the United Mine Workers of America, and your verdict must be for said defendant as against that plaintiff."

170. The court erred in refusing to give instruction No. 15 requested by the defendant, District No. 21, in writing as follows:

"If you find from a fair preponderance of the evidence that the defendant Locals were agents of District 21 of the United Mine Workers of America, and that they or any of their members or officers engaged in an unlawful conspiracy to interfere with the plaintiffs production of and interstate commerce in coal, the said District 21 would not be liable unless
4875 its entire membership had with full knowledge of the facts and before the institution of this suit adopted and ratified such unlawful perversion and illegal conspiracy, but only such members of District 21 should be held responsible as the evidence may show to have participated in or ratified such perversion or illegal conspiracy."

171. The court erred in refusing to give instruction No. 11 requested by all of the defendants separately in writing as follows:

"You are instructed that under the proof in this case the plaintiff has failed to establish the allegation of their complaint that the United Mine Workers of America has been engaged in a long standing and wide-spread conspiracy to interfere by unlawful means with the production and commerce of non-union coal, and you are therefore instructed that whatever conspiracy you may find, if any, to have existed among the defendants, or any of them, which resulted in the destruction of the properties of the plaintiff companies, or any of them, cannot be considered by you as arising out of a general conspiracy on the part of the United Mine Workers of America to interfere with the production and commerce of non-union coal."

172. The court erred in refusing to give instruction No. 12 requested by all of the defendants separately in writing as follows:

"I instruct you that the character and purposes of the defendant associations are lawful as expressed in their constitutions; and I further instruct you that the officers of the United Mine Workers of America had no right to pervert the association to unlawful purposes, or to participate in the unlawful conduct in the name of the said United Mine Workers of America, and that any such perversion of the purposes of said association, or any unlawful conduct on the part of its officers in relation to the alleged destruction of the plaintiff's property, would not bind the United Mine Workers of America, unless you further find by a fair preponderance of the evidence that the entire membership of the said United Mine Workers of America had authorized such unlawful conduct on the part of its officers, or with full knowledge of the facts had ratified their illegal conduct before the institution of this suit."

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173. The court erred in refusing to give instruction No. 13 requested by all of the defendants separately in writing, as follows:

"You are instructed that if you find by a fair preponderance of the evidence that a conspiracy existed among the defendants, or some of them, to interfere with the production and commerce of coal by the plaintiff companies, or any of them, your verdict should still not be against the United Mine Workers of America unless you further find by a fair preponderance of the evidence that its entire membership authorized its officers or members, or some of them, to participate in said illegal conspiracy, or that such officers or [memberd] did participate in such illegal conspiracy, and that the entire mem-

bership, with full knowledge of the facts, ratified such wrongful conduct before the institution of this suit."

173. The court erred in refusing to give instruction No.
4877 14 requested by all of the defendants separately in writing as follows:

"If you find from a fair preponderance of the evidence that the United Mine Workers of America did not have or assert jurisdiction or direction over the controversies between the plaintiff companies and the miners in April, May, June, July and August, 1914, and did not take part in any conspiracy to destroy plaintiffs' property as alleged, then I instruct you that there can be no ratification of the unlawful acts which you may find resulted in the destruction of plaintiffs' property by reason of the fact that certain officers or agents of said United Mine Workers of America may have assumed to ratify the commission of said acts, unless you further find that such ratification was made with the consent and approval of the membership of the United Mine Workers of America with full knowledge of the facts, and before the institution of this suit."

174. The court erred in refusing to give instruction No. 16 requested by all of the defendants separately in writing, as follows:

"It is the law that an act which a corporation or association can not lawfully do in the first instance can not be ratified by its officers or agents. Such an act is incapable of ratification, and the association or corporation is not bound by any attempted ratification thereof by its officers or agents."

175. The court erred in refusing to give instruction No. 17 requested by all of the defendants separately in writing as follows:

4878 "It is the law that there can be no ratification of acts which are in violation of the criminal statute, or against the public policy of the state or nation, and upon this principle I instruct you that there can be no evidence considered by you of ratification by the United Mine Workers of America of the alleged illegal conspiracy."

176. The court erred in refusing to give instruction No. 18 requested by all of the defendants separately in writing, as follows:

"If you find from a fair preponderance of the evidence that the Districts and Locals are agents of the United Mine Workers of America for the purpose of conducting local strikes under their own direction, then I charge you that such strikes

are presumed to be intended to be conducted by lawful means, and that if in the conduct of the strike in question the powers reposed in said district and locals were perverted, and that they or any of their members or officers engaged in an unlawful conspiracy to interfere with the plaintiffs' production of and interstate commerce in coal, the United Mine Workers of America would not be liable unless its entire membership had with full knowledge of the facts and before the institution of this suit acquiesced in and ratified such unlawful perversion and illegal conspiracy, but only such members can be held responsible as the evidence may show to have participated or acquiesced in such perversion and illegal conspiracy, or to have ratified the same with full knowledge of the facts befor the institution of this suit."

177. The court erred in giving the following charge to the jury after it had retired, following the general instructions, which charge was as folllows:

4879 "Now, Gentlemen of the Jury, this is a pretty serious situation and I want to say to you that the court has no thought at all of discharging you. You were sworn upon your oaths to do your duty as jurors. In the opinion of the court there is no reason on earth why reasonable men with a due regard for right, and each having due respect and consideration for the other's opinion, should not arrive at a conclusion in this case. What would be a fortune to either of you, or I, has already been spent and a failure to render justice in this and others is what brings the courts into contempt. I say this to you that you may understand the seriousness of your situation. The facts in this case have got to be found by a jury. Another jury will have no better opportunity of knowing what these facts are or be in any better position to determine these facts than you, and it is your duty as jurors under your oaths to get together and return a verdict.

Now the Federal Courts recognize the right of this court under these circumstances to say what this court believes in relation to the facts in this case, and you are advised that this court is of the opinion that the facts in this case justify you in the conclusion over-whelmingly that it was the policy and therefore the agreement for years of this national organization to prevent mining of non-union coal for the unlawful purposes named in this complaint that it might not come into competition with union mined coal; that there is no question in this Court's mind but that that strike was ordered down there for that purpose to prevent the mining of non-union coal in these plaintiff's mines; that the strike was called by those who were

the instrumentality of the greater organization, the gen-
4880 eral organization, the defendants, and their act was its act, and that they put into motion the force that destroyed this property, and that that force was put into motion for the purpose of preventing the mining of that coal, the shipping of that coal, the running of these mines. Why, this court has not a thought that there would ever have been any trouble there if it had not been for the prevention of the mining of non-union coal. Now, that is the judgment of this court and if it were my duty to decide it I would decide it here. Now you are not bound by my opinion. I have a right to give you my judgment, however, you are the sole and exclusive judges of the facts and it is for you to determine these issues of fact independent of my judgment and this court believes you ought to determine it and under your oaths as jurors agree upon a verdict.

If there is any question about the law on the responsibility for this, responsibility of the greater organization, that is for the higher court to say, but you cannot reach it until you have done your duty—you are the stumbling block in the way and this whole time is wasted. Now after I have said what I have, I am going to say that I have no thought of discharging you, you must return a verdict in this case. You are amply qualified to do the right thing as you see it, and as it should be done and the thought of this court is that no other jury will ever be better prepared to render a verdict than you and to separate without a verdict will be to have rendered all this expense of all this trial for naught—make it necessary to go all over the ground again with no better opportunity on the part of the jury in the box when it has all been done, to do the right
thing than you have now, no advantage—none in the
4881 world. You see the importance of the situation and I now urge you with the idea of doing the right thing and putting this matter in that condition that a trial of the case with a legitimate end, in which the verdict of the jury will place it. And with a knowledge and feeling of responsibility and that that responsibility is with you, that you now return to your jury room and bring in a verdict.

178. The court erred in accepting the verdict in the form returned by the jury, to-wit:

"We the jury find the issues in favor of the plaintiffs and against the defendants and assess plaintiffs' actual damages at Two Hundred Thousand Dollars.

. . . JOHN DUNNIGAN, Foreman."

179. The court erred in not requiring the jury to find the separate damages sustained by the several plaintiffs.

180. The court erred in overruling the separate and several motions of the defendants for judgment notwithstanding the verdict.

181. The verdict is contrary to the law.

182. The verdict is contrary to the evidence.

183. The court erred in assessing as part of the plaintiffs' damages, in addition to the damages found by the verdict of the jury, the sum of $40,200.00 as interest on $200,000.00 from July 17, 1914 to November 22, 1917.

184. The court erred in amending, correcting and modifying the judgment rendered on November 22, 1917, by adding thereto the further sum of $120,600.00 as interest.

4882 Wherefore, the Plaintiffs in Error separately and severally pray that the judgment of the United States District Court for the Western District of Arkansas, Fort Smith Division, rendered in this cause be in all things reversed and for such other relief as may be proper in the premises.

HENRY WARRUM,
COVINGTON & GRANT,
Attorneys for Plaintiffs in Error.

4883 Supersedeas Bond.

Filed in U. S. District Court March 23, 1918.

The Aetna Casualty and Surety Company Hartford Connecticut, Morgan G. Bulkeley President.

Know All Men by these Presents:

That we, the United Mine Workers of America, and District twenty-one of the United Mine Workers of America, as Principals, and The Aetna Casualty and Surety Company, of Hartford, Connecticut, as Surety, are jointly and severally held and firmly bound unto Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard, Receivers, and C. H. Finley and H. P. Hilliard, as Receivers for each and all of said companies, in the full

and just sum of Eight Hundred Thousand and no/100 ($800,000.00) dollars, to be paid to the said Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, by C. H. Finley and H. P. Hilliard, Receivers, their heirs, executors, administrators, successors or assigns, to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally by these presents.

Sealed with our seals and dated this 16th day of Feb-
4884 ruary in the year of our Lord one thousand nine hundred eighteen.

Whereas, lately at the June term of the District Court of the United States for the Western District of Arkansas, Fort Smith Division, in a suit depending in said court between Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bach-Denman Coal Company Hartford Coal Company, Sebastian County Coal Company Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard, Receivers, and C. H. Finley and H. P. Hilliard, Receivers, Plaintiffs, and United Mine Workers of America, P. R. Stewart, Fred Holt, John P. White, as President of United Mine Workers of America; P. R. Stewart, as President of United Mine Workers of America of District No. 21; James Mullen, National Executive Board Member, United Mine Workers of America; William McLaughlin; William McLaughlin, as President of United Mine Workers of America, District No. 21; Tom King; Tom King, as Board Member of United Mine Workers of America; Jess Edwards; Charley Farley; Edward Cunningham, and Edward Cunningham, as President of District No. 21, United Mine Workers of Amer-ict; Frank J. Hayes, and Frank J. Hayes, as Vice-President of the United Mine Workers of America; William Green, and William Green, as Secretary-Treasurer of the United Mine Workers of America; Joe Overman; O. A. Brooke; Dr. W. C. Chambers; Tom Kiger; Mike Cisco; Charles Hendricks; Jim Lee; Jake Thompson; George Burnett; Pink Dunn; Jim McNamara; Pete McMullen; John Mastell; James Slankard; Local Union No. 340, United Mine Workers of America; Local Union No. 374, United Mine Workers of America; Local Union No. 560, United Mine Workers

of America; Local Union No. 586, United Mine Work-
4885 ers of America; Local Union No. 1130, United Mine Workers of America; Local Union No. 1159, United Mine Workers of America; Local Union No. 1526, United Mine Workers of America; Local Union No. 1530, United Mine Workers of America; Local Union No. 1565, United Mine Workers of America; Local Union No. 1810, United Mine Workers of America; Local Union No. 1814, United Mine Workers of America; Local Union No. 1824, United Mine Workers of America; Local Union No. 1842, United Mine Workers of America; Local Union No. 1912, United Mine Workers of America; Local Union No. 1934, United Mine Workers of America; Local Union No. 2027, United Mine Workers of America; Local Union No. 2053, United Mine Workers of America; Local Union No. 2110, United Mine Workers of America; Local Union No. 2160, United Mine Workers of America; Local Union No. 2316, United Mine Workers of America; Local Union No. 2494, United Mine Workers of America; Local Union No. 2766, United Mine Workers of America; Local Union No. 2769, United Mine Workers of America; Local Union No. 2770, United Mine Workers of America; Local Union No. 2772, United Mine Workers of America; Local Union No. 2841, United Mine Workers of America; Local Union No. 2880, United Mine Workers of America; M. B. Appleby; Bruce Jordan; Whit Miller; Ed Baker; H. S. Treadway; G. G. Daniels, John Turnipseed; Lewis Evans; Joe Coneoda; B. Trout; Joe Assola; Joe Kervillas; Wm. Rodden; Charles Blackburn; Joe Lanier; Albert Hunter; Rich Handlin; Scott Adkins; Frank Petty; Claud Litchford; John Litchford; Otto Alimen; Carey Crumpton; Sam Wooten; Marion Hulsey; Maje Hulsey; Tom Watson; Derwood Warren; Harry Birckett; Willis Congo; Leslie Congo; Bud Congo; Charles McKown; J. W. Howard; Bud Williams (Col.); Wm. Price; Peter Mc-
4886 Mullen, Jr.; John Murray; John T. W. Davis; Brock Smith (Col.); Ed. Kehee, Defendants, judgment was rendered against the said named defendants and the said defendants United Mine Workers of America and District 21 of the United Mine Workers of America have obtained a writ of error of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard, Receivers, and C. H. Finley

and H. P. Hilliard, Receivers, citing and admonishing them to appear in the United States Circuit Court of Appeals for the Eighth Circuit, at the City of St. Louis, Missouri, sixty days from and after the date of said citation.

Now, the condition of the above obligation is such, that if the said United Mine Workers of America and District No. 21 of the United Mine Workers of America shall prosecute their said writ of error to effect, and answer all damages and costs if they fail to make good their plea, then the above obligation to be void, else to remain in full force and virtue.

Sealed and delivered in the presence of:

Margaret Hayes
Alberta Applewhite
J. O. Shepler
Ruth Haverick

UNITED MINE WORKERS OF AMERICA

FRANK J. HAYES President

WM. GREEN Sec'y-Treas.

DISTRICT NO. 21 OF THE UNITED MINE WORKERS OF AMERICA,
By Covington & Grant,
Its Attorneys of Record.

THE AETNA CASUALTY and SURETY COMPANY

By Morgan Bulkeley, Pres.

(Corporate Seal) President.
J. Scofield Rowe, Secretary.

4887 State of Indiana,
County of Marion—ss.

Personally appeared before me, a Notary Public, in and for the above named State and County, Frank J. Hayes, who subscribed to the above statement, this 14th day of March, 1918.

(Notarial Seal)

IRMA RICE,
Notary Public.

My commission expires April 12, 1919.

State of Ohio,
Coshocton County—ss.

Before me, a Notary Public in and for said County and State personally came Wm. Green, Sec'y-Treas. of The United Mine Workers of America, who subscribed the above instru-

ment and acknowledged the same to be his free act and deed for the uses and purposes therein mentioned.

In witness whereof, I have hereunto subscribed my name and affixed my official seal on this day and year, March 15, 1918.

(Notarial Seal) WILLIAM S. MERRELL,
Notary Public.

My commission expires April 15, 1919.

State of Connecticut,
County of Hartford—ss.

On this 11th day of March, A. D. 1918, before me personally appeared Morgan G. Bulkeley, President of The Aetna Casualty and Surety Company at Hartford, Connecticut, with whom I am personally acquainted, who being by me duly sworn said: that he resides at Hartford, Connecticut; that he is President of The Aetna Casualty and Surety Company at Hartford, Connecticut, the corporation described in and which executed the within instrument; that he knows the corporate seal of said Company; that the seal affixed to the within instrument
4888 is such seal, and that it was so affixed by the order of the Board of Directors of said Company; and that he signed his name thereto as President by like authority.

And the said Morgan G. Bulkeley further says that he is acquainted with J. Scofield Rowe and knows him to be Secretary of said Company; that the signature of the said J. Scofield Rowe subscribed to the within instrument is in the genuine handwriting of the said J. Scofield Rowe and was thereto subscribed by the like order of said Board of Directors.

And on this 11th day of March, A. D. 1918, also before me personally appeared J. Scofield Rowe, Secretary of The Aetna Casualty and Surety Company at Hartford, Connecticut, with whom I am personally acquainted who being by me duly sworn said: that he resides at Hartford, Connecticut; that he is Secretary of The Aetna Casualty and Surety Company at Hartford, Connecticut, the corporation described in and which executed the within instrument; that he knows the corporate seal of said Company; that the seal affixed to the within instrument is such seal, and that it was so affixed by the order of the Board of Directors of said Company, and that he signed his name thereto as Secretary by like authority.

And the said J. Scofield Rowe further says that he is acquainted with Morgan G. Bulkeley and knows him to be President of said Company; that the signature of the said Morgan

G. Bulkeley subscribed to the within instrument is in the genuine handwriting of the said Morgan G. Bulkeley and was thereto subscribed by the like order of said Board of Directors.

The foregoing acknowledgment being attached to a certain Surety bond, dated February 16th, A. D. 1918, in the penal sum of Eight Hundred Thousand and no/100 ($800,000.-
4889 00) Dollars, wherein United Mine Workers of America and District No. 21 of the United Mine Workers of America are Principals and said The Aetna Casualty and Surety Company is Surety and Coronado Coal Company and others are the Obligees.

(Notarial Seal)

ALFRED PLANT,
Notary Public in and for said County and State.

State of Indiana,
County of Marion—ss.

On this 18th day of February, A. D. 1918, before me personally appeared George R. Montgomery, of Indianapolis, Indiana, with whom I am personally acquainted, who being by me duly sworn said: That he resides in the City of Indianapolis, State of Indiana; that he is a duly appointed Resident Vice President of The Aetna Casualty and Surety Company, of Hartford, Connecticut; that, in the matter of a certain surety bond, dated February 16th, A. D. 1918, in the penal sum of Eight Hundred Thousand and no/100 ($800,000.00) Dollars wherein United Mine Workers of America, District No. 21 of the United Mine Workers of America, are Principals, and said The Aetna Casualty and Surety Company, is Surety, and Coronado Coal Company and others are the obligees (which bond has been filed or is about to be filed in connection with a writ of error to reverse a judgment rendered lately, at the June Term of the District Court of the United States for the Western District of Arkansas, in favor of The Coronado Coal Company and others against said Principals), affiant has been duly and specifically instructed, authorized, and designated by said The Aetna Casualty and Surety Company as its agent in its behalf to arrange for the procurement of collateral security for the protection of said Surety against loss resulting
4890 from the execution of the aforesaid bond and the deposit of said security under the control of said Surety; and that, as the duly instructed and authorized and designated agent of said Surety in this behalf, affiant has secured and has deposited under the control of said Surety as collateral security to protect said Surety against loss resulting from the execution of said bond,

Liberty Bonds of the United States of America of the face value in excess of the sum of Four Hundred Thousand and no/100 ($400,000.00) Dollars and in an amount at least equal to the difference between ten percent of the combined capital and surplus of The Aetna Casualty and Surety Company and the amount of the aforesaid bond, to which this certificate is attached, and that said collateral has been secured and is being held in an amount and under conditions whereby said The Aetna Casualty and Surety Company may, in accordance with the rules of the Treasury Department of the United States of America, execute as sole Surety the attached bond above referred to, which bond is in the amount of Eight Hundred Thousand and no/100 ($800,000.00) Dollars.

GEORGE R. MONTGOMERY.

Subscribed and sworn to before me this 18th day of February, 1918.

(Notarial Seal)

ROBBINS C. GRISWOLD,
Notary Public in and for the County of Marion and State of Indiana.

My commission expires April 25, 1918.

4891

United States of America.

Certificate of Authority.

Treasury Department,

May 1, 1917.

Know all men by these presents:

That, whereas, The Aetna Accident and Liability Company, of Hartford, Connecticut, has been duly incorporated under the laws of the State of Connecticut, possesses appropriate corporate powers, has the requisite amount of capital stock paid up in cash, is able to keep and perform its contracts, and has otherwise complied with the conditions prescribed by law authorizing certain corporations to be accepted as sole sureties on obligations given to the United States, as provided by the Act of Congress approved August 13, 1894 (28 Statutes, pp. 279-80), as amended by the Act of Congress approved March 23, 1910 (36 Statutes, p. 241).

Now, therefore, I hereby authorize and empower the said The Aetna Accident and Liability Company subject to the regulations of this Department, to qualify as sole surety on recognizances, stipulations, bonds and undertakings permitted or required by the laws of the United States, to be given with one

or more sureties. This certificate shall expire on the thirtieth day of April, 1918, unless sooner revoked.

In Witness Whereof, I have hereunto set my hand, and caused the seal of the Treasury Department to be affixed, on the day and year first above written.

(Seal of Treasury Department) BYRON R. NEWTON,
Acting Secretary of the Treasury.

4892 At a Meeting of the Board of Directors of The Aetna Casualty and Surety Company, duly called and held on the 26th day of October, 1911, a quorum being present, the following votes were passed:

Voted: That Morgan G. Bulkeley, President, Walter C. Faxon, Vice-President, Morgan B. Brainard, Treasurer, J. Scofield Rowe, Secretary, C. H. Remington, Assistant Treasurer, Daniel N. Gage, R. W. Myers and Norman C. Stevens, Assistant Secretaries, be, and each of them is hereby authorized and empowered to execute and deliver and attach the seal of the Company to any and all bonds and undertakings, on behalf of the Company, in its business of guaranteeing the fidelity of persons holding places of public or private trust, and the performance of contracts other than insurance policies, and executing or guaranteeing bonds and undertakings required or permitted in all actions or proceedings or by law required; such bonds and undertakings, however, to be attested in every instance by one other of the officers above named, as occasion may require.

State of Connecticut,
County of Hartford—ss.

I, Charles H. Remington, Assistant Treasurer of The Aetna Casualty and Surety Company, and referred to in the foregoing as "C. H. Remington, Assistant Treasurer", have compared the foregoing votes with the original thereof, as recorded in the minute book of the said Company, and do hereby certify that the same is a true and correct transcript therefrom, and of the whole of said original votes.

4893 Given under my hand and the seal of the Company, at the City of Hartford this 16th day of February, 1918.

(Corporate Seal) C. H. REMINGTON
CHARLES H. REMINGTON,
Assistant Treasurer.

State of Connecticut,
County of Hartford—ss.

On this 16th day of February, A. D. 1918, before me personally appeared Charles H. Remington, to me known and known to me to be the individual described in and who executed the foregoing certificate, and made oath that he is Assistant Treasurer of said The Aetna Casualty and Surety Company, and acknowledged to me that he executed the said certificate.

(Notarial Seal)

ALFRED PLANT,
Notary Public in and for
said County and State.

State of Connecticut,
Hartford County.—ss.

I, George A. Conant, Clerk of the County of Hartford and of the Superior Court of said State within and for said County, which is a Court of Record, and keeper of the seal thereof, do hereby certify that Alfred Plant whose name is subscribed to the certificate of proof of acknowledgment, affidavit or oath on the annexed instrument was at the time of taking acknowledgment, proof or affidavit or administering such oath, duly authorized to take or administer the same and was a Notary Public within and for said State, dwelling in said County, duly appointed, commissioned, and sworn, and authorized by the laws of this State to administer oaths for general purposes and to take affidavits and the acknowledgment or proof of deeds to be recorded in this State; that I am well acquainted with his handwriting and verily believed that the signature to the said acknowledgment or proof,
4894 affidavit or oath is genuine.

In Testiomony Whereof, I have hereunto set my hand and the seal of said Superior Court at Hartford, in said County, this 12th day of March, A. D. 1918.

(Seal of Superior Court).

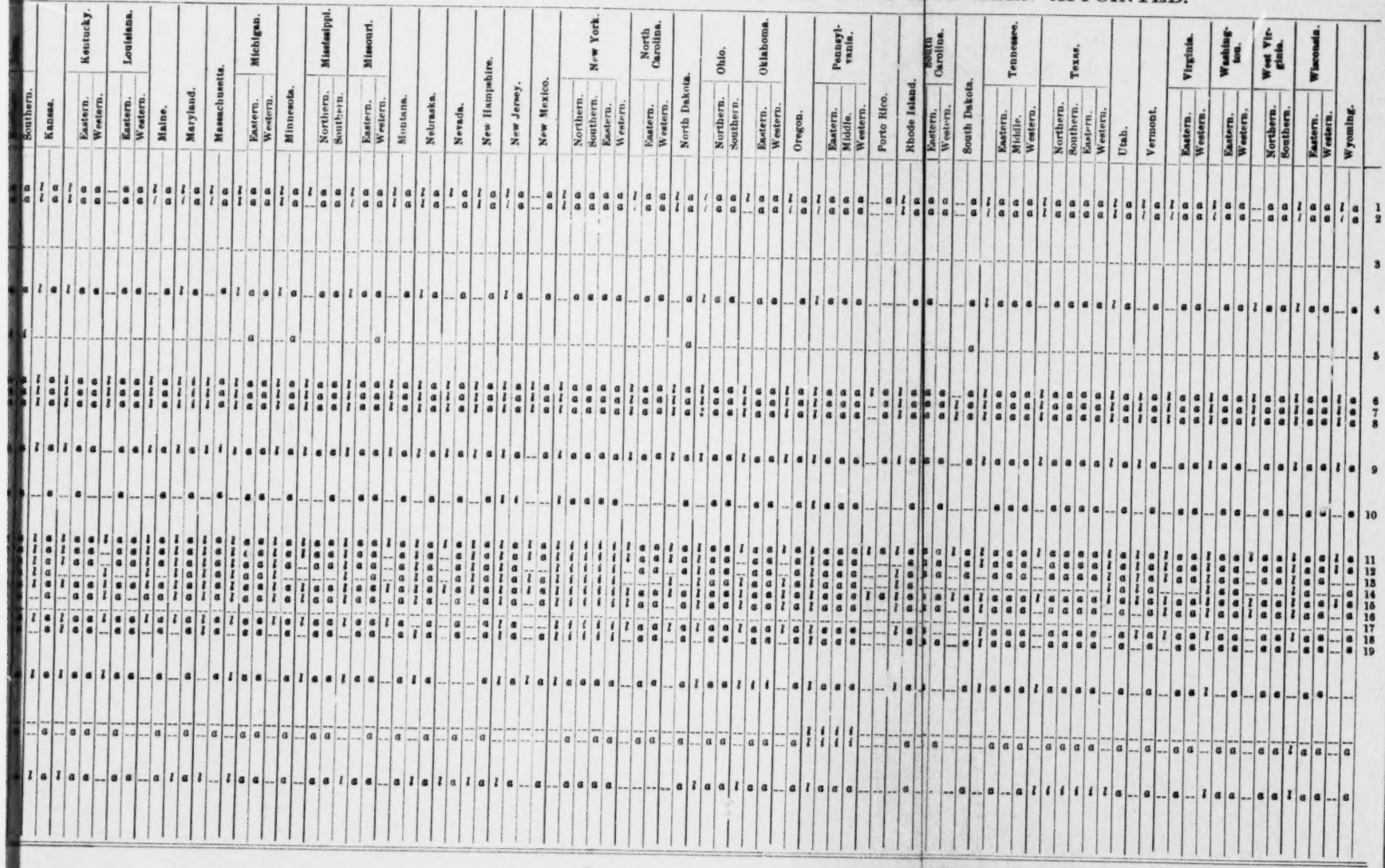
GEORGE A. CONANT,
Clerk.

COMPANIES holding Certificates of Authority from the Secretary of the Treasury under the Acts of Congress of August 13, 1894, and March 3, 1911, which they are Incorporated or Licensed to do Business; and Judicial Districts in which they have Appointed Process Agents. Also Acceptable Sureties.

INCORPORATED NAMES OF COMPANIES WITH LOCATIONS OF HOME OFFICES.	QUALIFYING POWERS. On basis of financial statement for the year ended December 31, 1917. Capital.	Surplus and undivided profits.	Limit on any one bond 10 per cent of capital and surplus.	STATES IN WHICH INCORPORATED OR LICENSED. Alabama: Northern, Middle, Southern. Alaska. Arizona. Arkansas: Eastern, Western. California: Southern. Canal Zone. Colorado. Connecticut. Delaware. District of Columbia. Florida: Northern, Southern. Georgia: Northern, Southern. Hawaii. Idaho. Illinois: Northern, Eastern, Southern. Indiana. Iowa: Northern, Southern. Kansas. Kentucky: Eastern, Western. Louisiana: Eastern, Western. Maine. Maryland. Massachusetts.
Connecticut.				
1. The Ætna Casualty and Surety Company, Hartford	$2,000,000.00	$2,768,417.06	$476,841.71	a a a

t 13, 1894, and March 23, 1910, as Acceptable Sureties on Federal Bonds; Limit for which they may be Accepted on any one Bond; States in Agents. Also Acceptable Reinsuring Companies under Department Circular of September 21, 1910. evised to March 25, 1918.

TED OR LICENSED, AND JUDICIAL DISTRICTS IN WHICH PROCESS AGENTS HAVE BEEN APPOINTED.

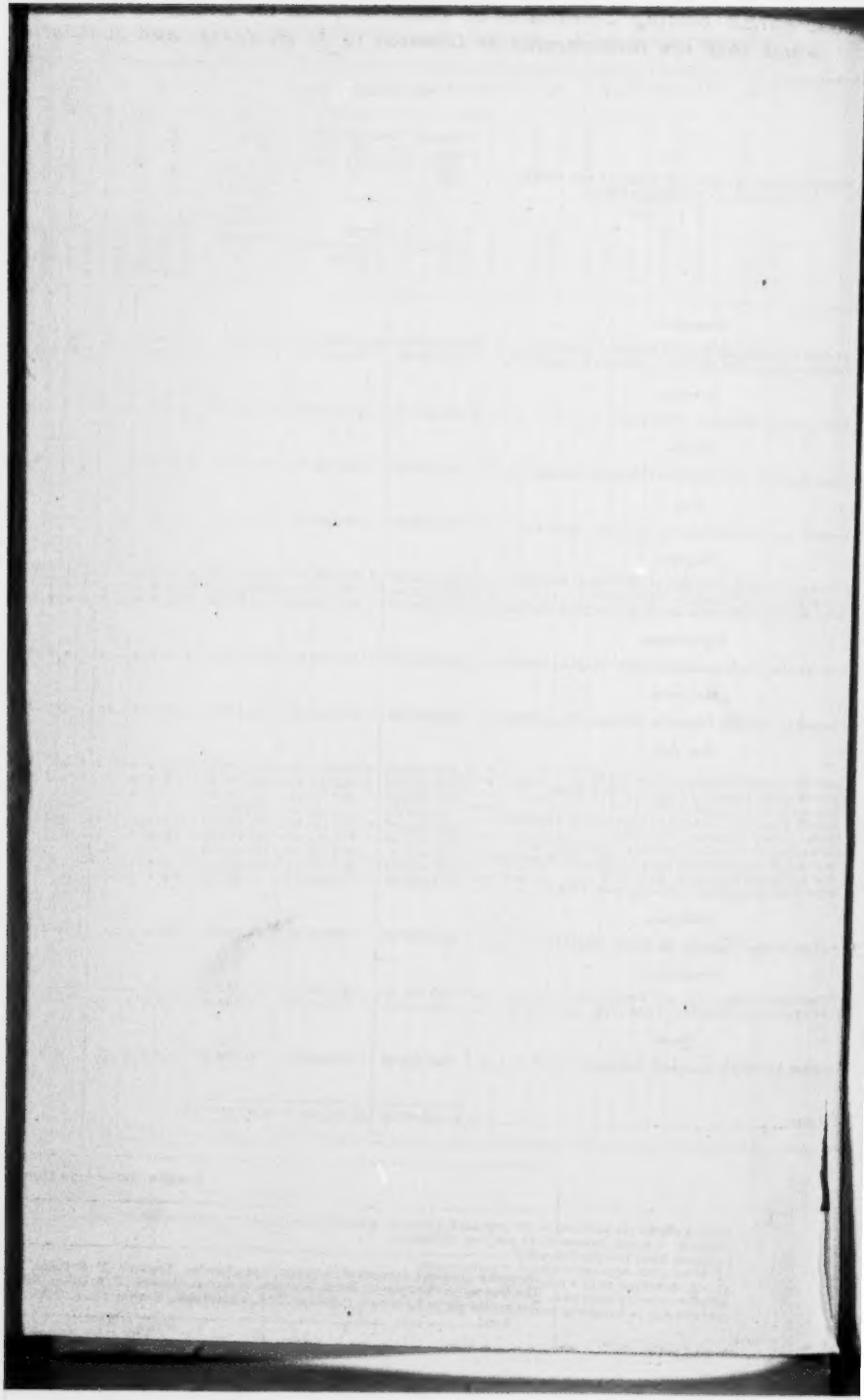


TREASURY DEPARTMENT,

OFFICE OF THE SECRETARY,

WASHINGTON, D. C., *March 25, 1918.*

I HEREBY CERTIFY that the foregoing is a list of companies which, except where otherwise noted, have complied with the law and the regulations of the Treasury Department and are acceptable as sureties on Federal bonds, within the limitations set opposite their respective names, in the judicial districts of the States wherein they have appointed process agents.



4896 Within Bond Approved this 21 day of Mch. 1918. Jas. D. Elliott Judge. Filed March 23, 1918. Wm. S. Wellshear, Clerk.

4897 Cost Bond On Writ Of Error.

Filed in U. S. District Court March 23, 1918.

Know All Men By These Presents:

That we, United Mine Workers of America, and District Twenty-one (21) of the United Mine Workers of America, and John P. White, P. R. Stewart, John P. White as President of the United Mine Workers of America, P. R. Stewart as President of the United Mine Workers of America, District number Twenty-one; William McLachlin, William McLachlin, as President of the United Mine Workers of America, District Twenty-one; Tom King, Tom King as Board Member of the United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham, Edward Cunningham as President of District Twenty-one of the United Mine Workers of America, Frank J. Hays, Frank J. Hays as Vice President of the United Mine Workers of America; William Green, William Green as Secretary-Treasurer of the United Mine Workers of America, Joe Overman, O. A. Brook, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendry, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, Local Union 340, United Mine Workers of America, Local Union No. 374 United Mine Workers of America, Local Union 560 United Mine Workers of America, Local Union 586 United Mine Workers of America, Local Union 1130 United Mine Workers of America, Local Union No. 1526 United Mine Workers of America, Local Union 1530, United Mine Workers of America, Local Union No. 1565 United Mine Workers of America, Local Union No. 1810 United Mine Workers of America, Local Union No. 1814 United Mine Workers of America, Local Union No. 1842 United Mine Workers of America, Local Union No. 1912 United Mine Workers of America, Local Union No. 1912,
4898 United Mine Workers of America, Local Union No. 1934 United Mine Workers of America, Local Union No. 2027 United Mine Workers of America, Local Union No. 2053, United Mine Workers of America, Local Union No. 2110 United Mine Workers of America, Local Union No. 2160 United Mine Workers of America, Local Union No. 2494 United Mine Workers of America, Local Union No.

2766 United Mine Workers of America, Local Union No.
2769 United Mine Workers of America, Local Union No.
2770 United Mine Workers of America, Local Union No.
2772 United Mine Workers of America, Local Union No.
2841 United Mine Workers of America, Local Union No.
2880 United Mine Workers of America, and M. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, Joe Kervillas, William Rodden, Charles Blackburn, Joe Lanier, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claude Litchford, John Lichford, Otto Alimen, Carey Crumpton, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Willis Congo, Leslie Congo, Bud Congo, Charles McKnwen, J. W. Howard, Bud Williams, (Col) Wm. Price, Peter McMullen, Jr., John Murray, John T. W. Davis, Brock Smith, Ed Kehee, as Principals, and the Aetna Casualty & Surety Company, of Hartford, Connecticut, as surety, are held and firmly bound unto the Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard, Receivers, and H. P. Hilliard and C. H. Finley, Receivers of each and all of said coal companies, in the penal sum of Five Thousand Dollars ($5,000.00) to the payment of which, well and truly to be made and done, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents.

4899 Sealed with our seals and dated this the 18th day of March, A. D. 1918.

The Condition of the above obligation is such, that, whereas heretofore, to-wit: on the 22nd day of November, 1917, the said Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finlay and Henry P. Hilliard, as Receivers, and Henry P. Hilliard and C. H. Finlay, as Receivers of each and all of said Coal Companies, in the District Court of the United States for the Western District of Arkansas, Fort Smith Division, recovered a judgment

against the said principals, hereinbefore named, in damages and costs of suit, etc., from which said judgment of said court the said principals hereinbefore named, appealed to the United States Circuit Court of Appeals for the Eighth Circuit:

Now, if the said principals, hereinbefore named, shall and will duly prosecute said appeal to effect, and answer all costs if they fail to make good their plea, then the above obligation to be null and void; otherwise to remain (in) full force and virtue in law.

UNITED MINE WORKERS OF AMERICA, (Seal)

DISTRICT 21 OF THE UNITED MINE WORKERS OF AMERICA. (Seal)

JOHN P. WHITE (Seal)

P. R. STEWART (Seal)

JOHN P. WHITE, as President of the United Mine Workers of America (Seal)

P. R. STEWART, as President of District 21 of the United Mine Workers of America (Seal)

4900 WILLIAM McLACHLIN (Seal)

WILLIAM McLACNLIN, as President of District 21 of the United Mine Workers of America (Seal)

TOM KING (Seal)

TOM KING, as Board Member of the United Mine Workers of America (Seal)

JESS EDWARDS (Seal)

CHARLEY FARLEY (Seal)

EDWARD CUNNINGHAM (Seal)

EDWARD CUNNINGHAM, as President of District 21 of the United Mine Workers of America (Seal)

FRANK J. HAYS (Seal)

FRANK J. HAYS, as Vice President of the United Mine Workers of America (Seal)

WILLIAM GREEN, (Seal)

WILLIAM GREEN, as Secretary-Treasurer of the United Mine Workers of America (Seal)

JOE OVERMAN (Seal)

O. A. BROOKE (Seal)

DR. W. C. CHAMBERS, (Seal)

TOM KIGER (Seal)

MIKE CISCO (Seal)

CHARLEY HENDRY (Seal)

JIM LEE (Seal)

JAKE THOMPSON (Seal)

GEORGE BURNETT (Seal)

PINK DUNN (Seal)

JIM McNAMARA (Seal)

PETE McMULLEN (Seal)

JOHN MASTELL (Seal)

4901 JAMES SLANKARD (Seal)

LOCAL UNION NO. 340 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 374 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 560 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 586 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 1130 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 1526 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 1530 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 1565 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 1810 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 1814 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 1842 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO 1912 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 1934 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 2027 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 2053 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 2110 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 2160 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 2494 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 2766 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

4902

LOCAL UNION NO. 2769 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 2770 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 2772 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 2772 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 2841 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

LOCAL UNION NO. 2880 OF THE UNITED MINE WORKERS OF AMERICA (Seal)

M. B. APPLEBY (Seal)

BRUCE JORDAN (Seal)

WHIT MILLER (Seal)

ED BAKER (Seal)

H. S. TREADWAY, (Seal)

G. G. DANIELS (Seal)

JOHN TURNIPSEED (Seal)

LEWIS EVANS (Seal)

JOE CONEODA (Seal)

B. TROUT (Seal)

JOE ASSOLA (Seal)

JOE KERVILLAS (Seal)

WILLIAM RODDEN (Seal)

CHARLES BLACKBURN (Seal)

JOE LANIER (Seal)

ALBERT HUNTER (Seal)

RICH HANDLIN (Seal)

SCOTT ADKINS (Seal)

FRANK PETTY (Seal)

CLAUDE LITCHFORD (Seal)

JOHN LITCHFORD (Seal)

4903 OTTO ALIMEN (Seal)

CAREY CRUMPTON (Seal)

SAM WOOTEN (Seal)

MARION HULSEY (Seal)

MAJE HULSEY (Seal)

TOM WATSON (Seal)

DERWOOD WARREN (Seal)

HARRY BIRKETT (Seal)

WILLIS CONGO (Seal)

LESLIE CONGO (Seal)

BUD CONGO (Seal)

CHARLES McKOWEN (Seal)

J. W. HOWARD (Seal)

BUD WILLIAMS (Col) (Seal)

WM. PRICE (Seal)

PETER McMULLEN, JR. (Seal)

JOHN MURRAY (Seal)

JOHN T. W. DAVIS (Seal)

BROCK SMITH (Seal)

ED KEHEE (Seal)
Principals.

Each and all of the above named principals by
Henry Warrum and
Covington & Grant
their Attorneys of Record.

THE AETNA CASUALTY & SURETY CO., OF HARTFORD, CONN. (Seal)
By James B. McDonough,
Attorney in Fact.

Frank Bollinger, Jr.,
Attorney in Fact.

Approved this 21 day of Mch 1918.
Jas. D. Elliott, Judge.

4904 (Praecipe for Transcript.)

Filed in U. S. District Court April 2, 1918.

To the Clerk of the above Court:

You will please include in the transcript of the above styled cause all of the pleadings, motions, papers and processes, beginning with the filing of the original complaint.

Respectfully,

HENRY WARRUM
COVINGTON & GRANT,
Attorneys for Plaintiffs in Error.

I hereby waive service of the above on this the 2nd day of April, 1918.

JAMES B. McDONOUGH,
Atttorney for Defendants in Error.

4905 Application for Uunc Pro Tunc Order to Amend Bill of Exceptions.

Filed in U. S. District Court April 20, 1918.

Now come the United Mine Workers of America, District No. 21 of the United Mine Workers of America, P. R. Stewart, Fred Holt, John P. White as President of the United Mine Workers of America, P. R. Stewart as President of the United Mine Workers of America, District No. 21, William McLach-

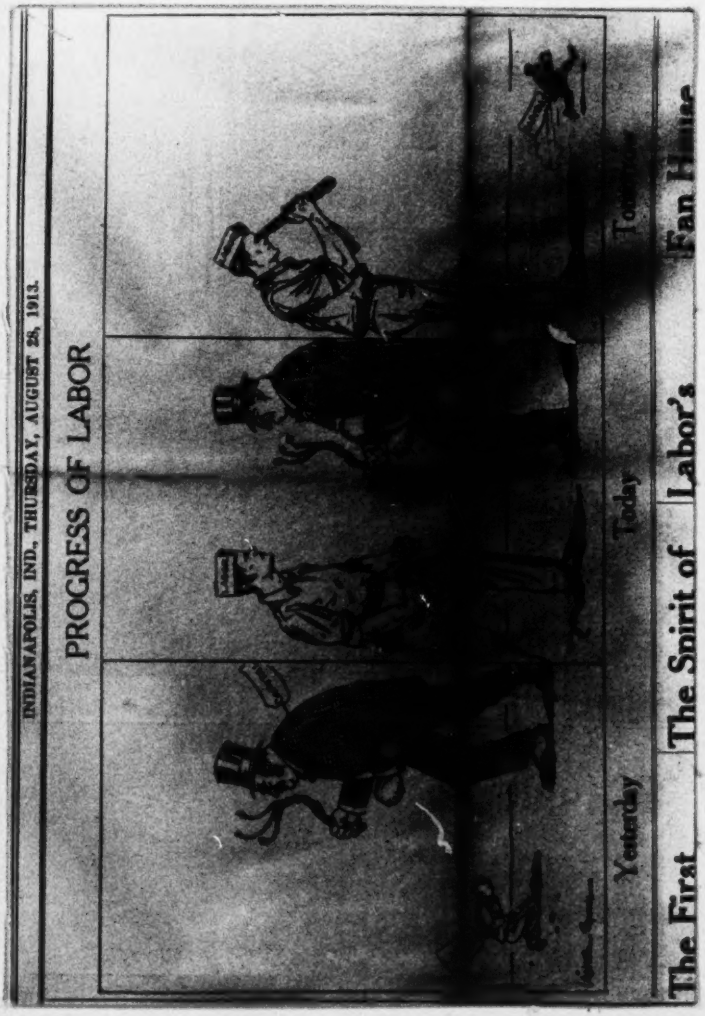
lin, William McLachlin as President of the United Mine Workers of America, District No. 21, Tom King, Tom King as Board Member of the United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham, and Edward Cunningham as President of the United Mine Workers of America, District No. 21, Frank J. Hays, and Frank J. Hays as Vice President of the United Mine Workers of America, William Green and William Green as Secretary-Treasurer of the United Mine Workers of America, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charley Hendry, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, Local Unions numbers 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841, 2880, 374 and 586, of the United Mine Workers of America, and M. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, Joe Kervillas, William Rodden, Charley Blackburn, Joe Lanier, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claude Litchford, John Litchford, Otto Aliman, Carey Crumpton, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom
4905a Watson, Derwood Warren, Harry Burktet, Willis Congo, Leslie Congo, Bud Congo, Charles McKowen, J. W. Howard, Bud Williams, William Price, Peter McMullen, Jr., John Murray, John T. W. Davis, Brock Smith and Ed Kehee, and show to the court that at the trial of the above styled cau a large number of photographs, and documentary evidence, were introduced as a part of the evidence, exhibited to the jury and made a part of the record of the case, that at the time of presenting the Bill of Exceptions to the court for approval, on the 7th day of February, 1918, the said photographs and documentary evidence so introduced, exhibited and made part of the record, as aforesaid, there were omitted from the said bill of exceptions so presented the photographs and documentary evidence, described and referred to as follows:

4906 I.

Cartoon taken from United Mine Workers Journal, (introduced by the plaintiff) of date June 11, 1908.

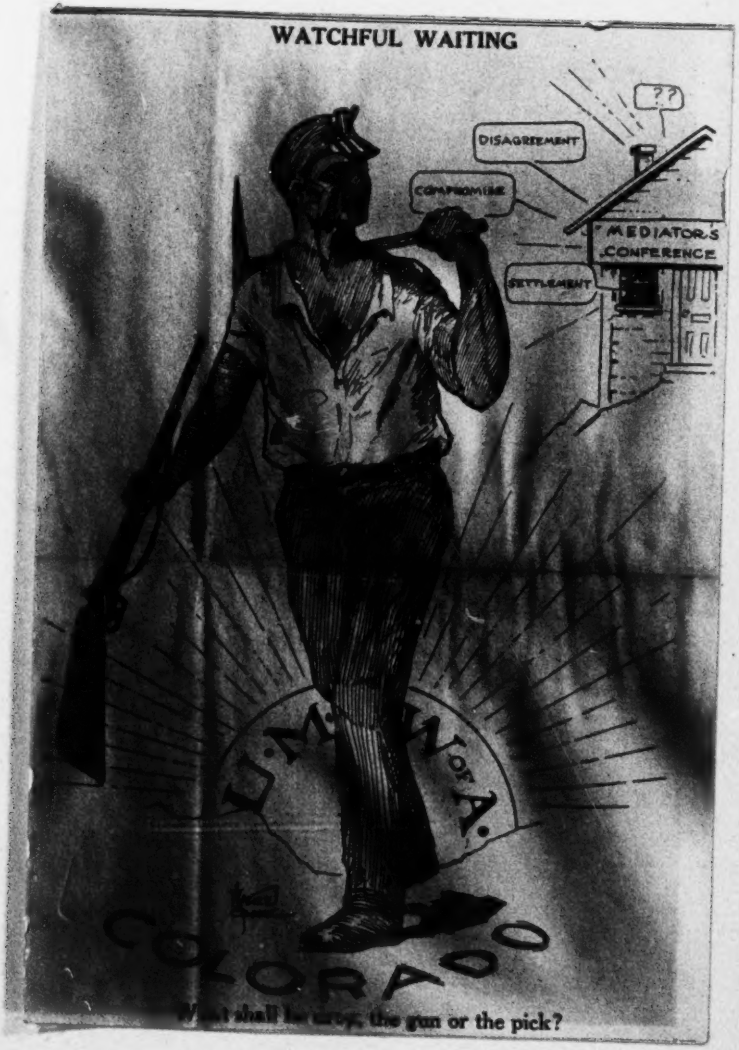
4907 II.

Cartoon taken from United Mine Workers Journal (introduced by plaintiffs) of date August 28, 1913.



4908 III.

Cartoon taken from United Mine Workers Journal (introduced by plaintiffs) of date July 16, 1914.

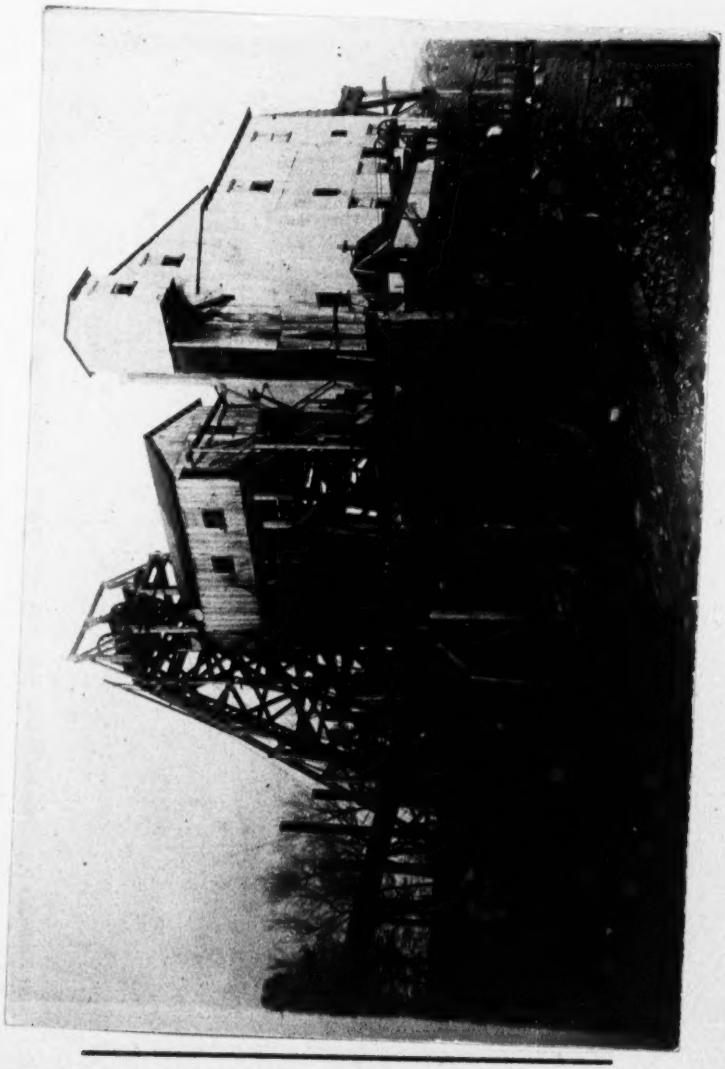


IV.

Plaintiff's Exhibit No. 61, a relief of map of the vicinity of Prairie Creek, Sebastian County, Arkansas.

4910 V.

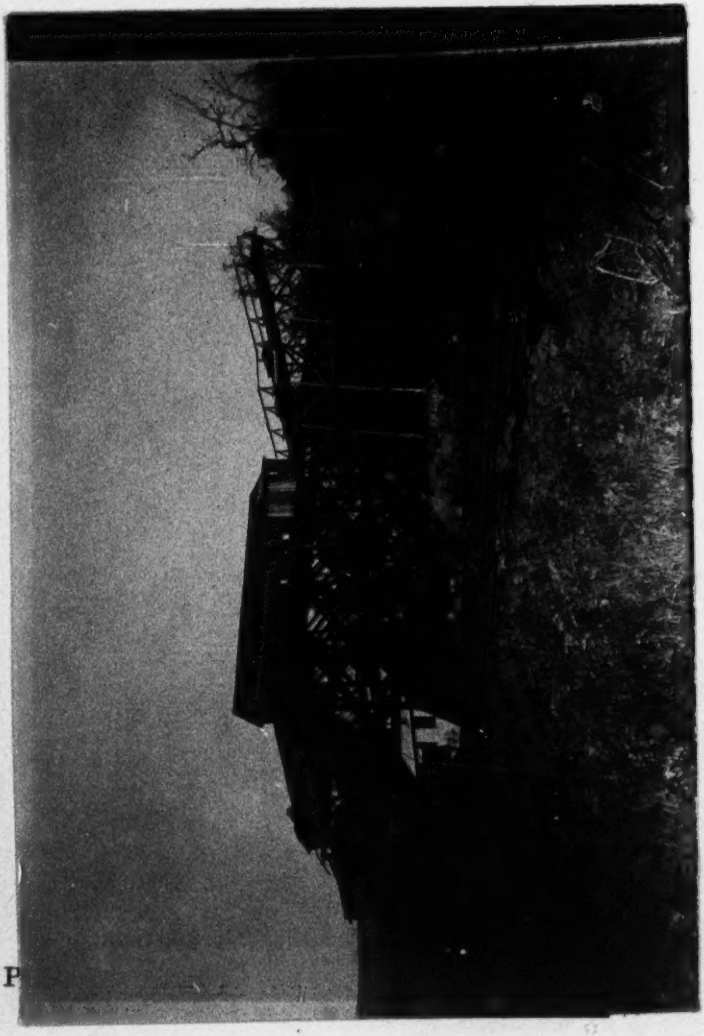
Plaintiffs' Exhibit No. 62, showing Coronado Tipple on November 19, 1913, (By Redner)



Plaintiff's Exhibit No. 69 is a duplicate of Exhibit No. 62.

4911 VI.

Plaintiff's Exhibit No. 63, showing Rock Island Tipple in connection with Mammoth Vein Mine No. 1, November 19, 1913, (By Redner).

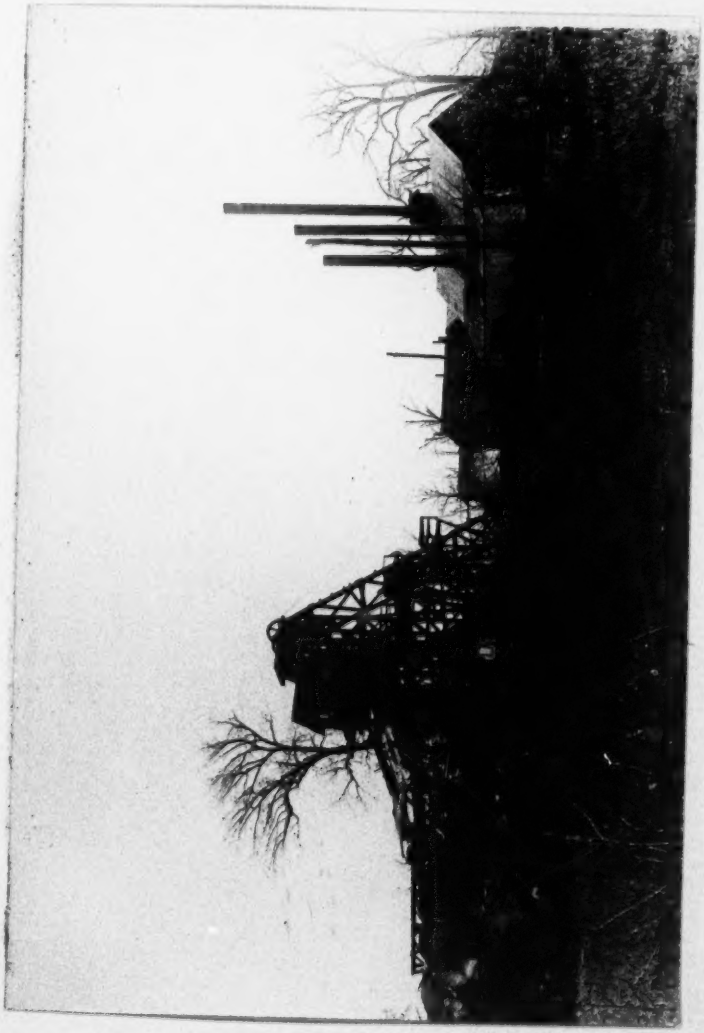


P

4912

VII.

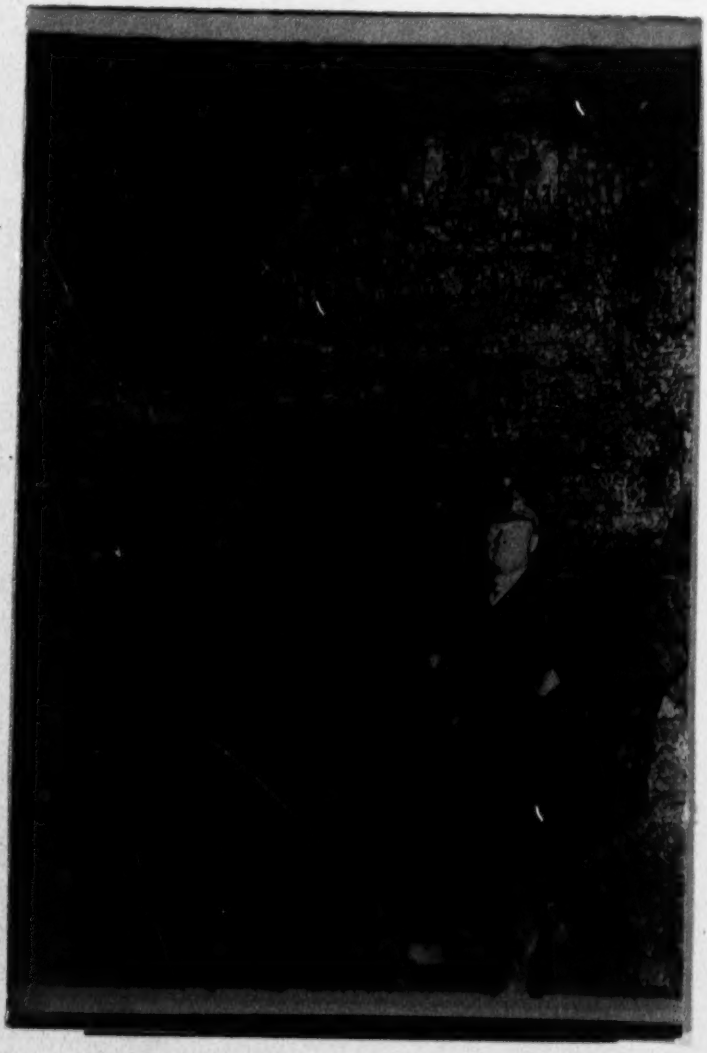
Plaintiff's Exhibit No. 64 showing Mammoth Vein No. 6 on November 19, 1913, (By Redner).



4913

VIII.

Plaintiff's Exhibit No. 65 showing Mr. Heber Denman in Mammoth Vein Mine No. 1, prior to July 17, 1914.



Plaintiff's Exhibit No. 73 is a duplicate of No. 65.

4914

IX.

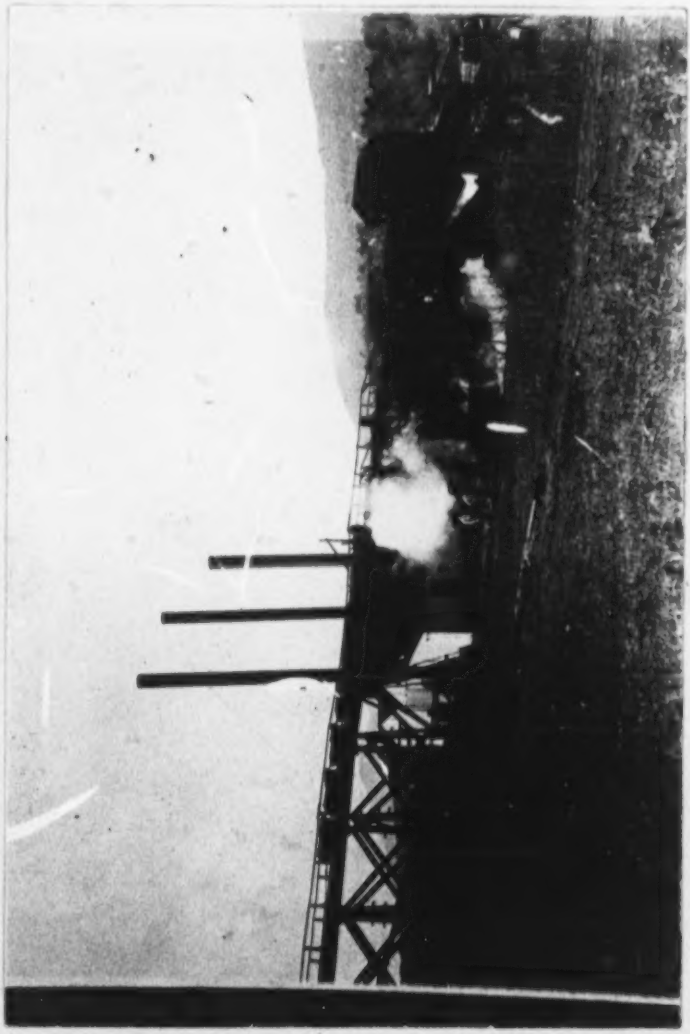
Plaintiff's Exhibit No. 66 showing Dallas Mine November 13, 1913.

Plaintiff's Exhibit No. 72 is a duplicate of No. 66.

4915

X.

Plaintiff's Exhibit No. 67 showing Midland Valley Tipple at Mammoth Vein No. 1, November 19, 1913.



Plaintiff's Exhibit No. 70 is a duplicate of No. 67.

4916 XI.

Plaintiff's Exhibit No. 68 showing Prairie Creek Mine No. 4, November 19, 1913.

Plaintiff's Exhibt No. 75 is a duplicate of No. 68.

4917

XII.

Plaintiff's Exhibit No. 76, showing Engine and Boiler Room of Prairie Creek No. 3 Mine, July 20, 1914.

4918

XIII.

Plaintiff's Exhibit No. 77 showing Boiler Room of Prairie Creek No. 3, July 20, 1914.

4919 XIV.

Plaintiff's Exhibit No. 78 showing Tipple and Mine Prairie Creek No. 3 on July 20, 1914.

Plaintiff's Exhibit No. 95 is a duplicate of Exhibit No. 78.

4920

XV.

Plaintiff's Exhibit No. 81 showing Mammoth Vein Mine No. 1 (Midland Valley Tipple) July 20, 1914.

Plaintiff's Exhibit No. 96 is a duplicate of No. 81.

4921

XVI.

Plaintiff's Exhibit No. 82 showing view of Mammoth Vein No. 1, (Midland Valley Tipple) July 20, 1914.

4922

XVII.

Plaintiff's Exhibit No. 83 showing Mammoth Vein No. 1, July 20, 1914.

4923 XVIII.

Plaintiff's Exhibit No. 84 showing Rock Island Dump and Tipple site at Mammoth Vein No. 1 (Midland Valley Tracks) July 20, 1914.

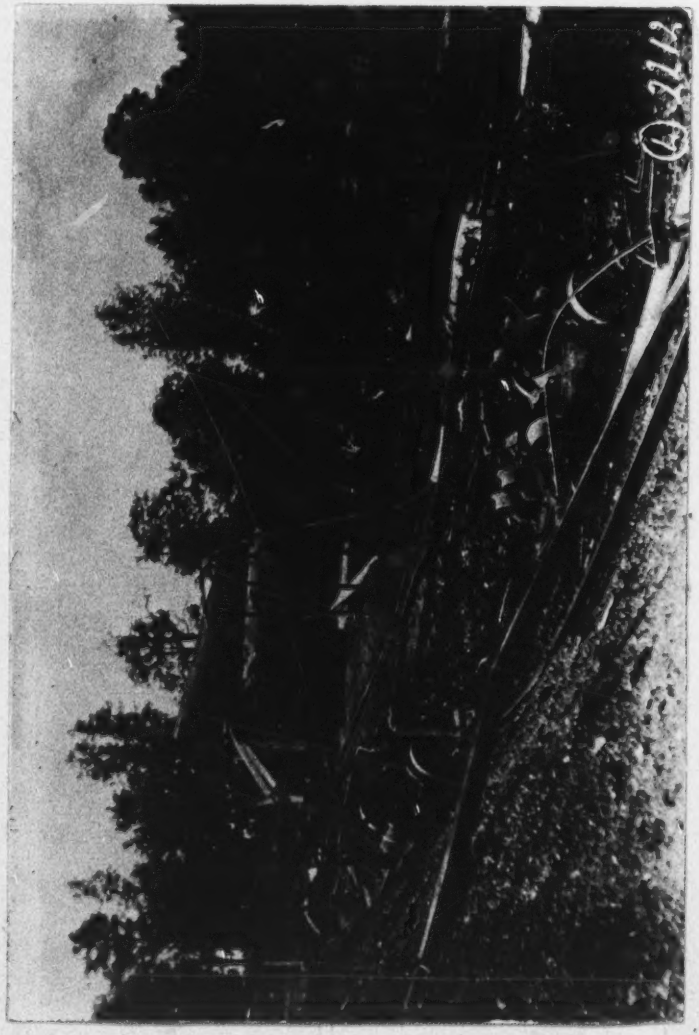
4924

XIX.

Plaintiff's Exhibit No. 85 showing slope of Mammoth Vein No. 1 July 20, 1914, as follows:

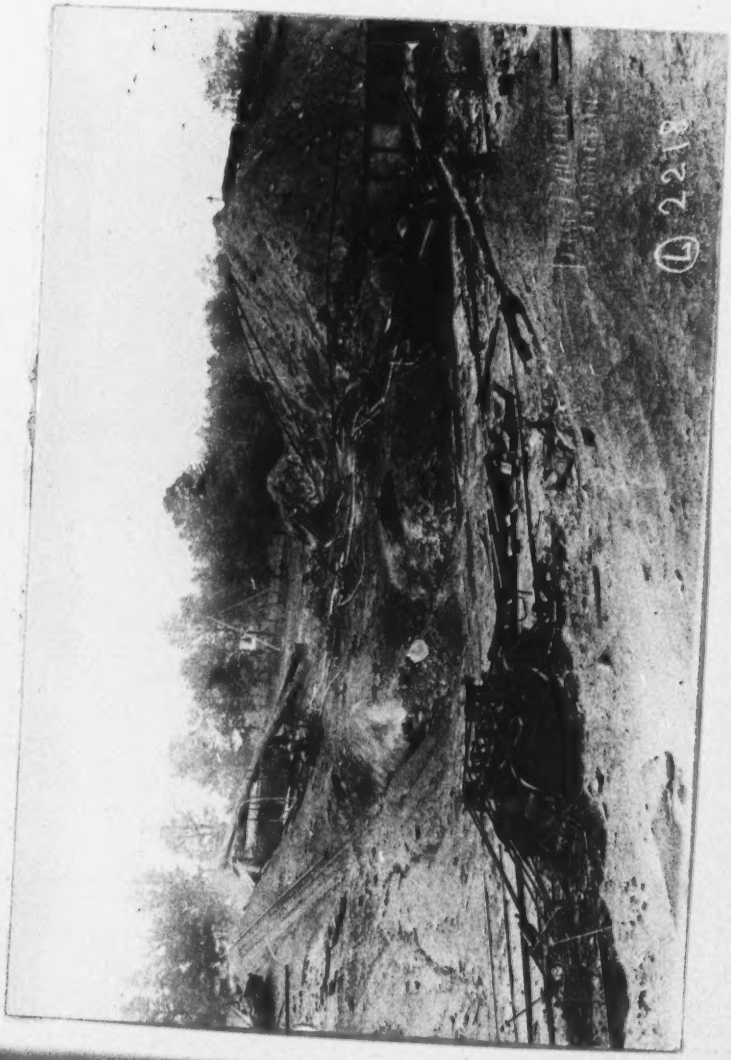
XX.

Plaintiff's Exhibit No. 86 showing Boiler House Mammoth Vein No. 1, July 20, 1914.



4926 XXI.

Plaintiff's Exhibit No. 87, showing Mammoth Vein No. 1 (Midland Valley Tipple) July 20, 1914.

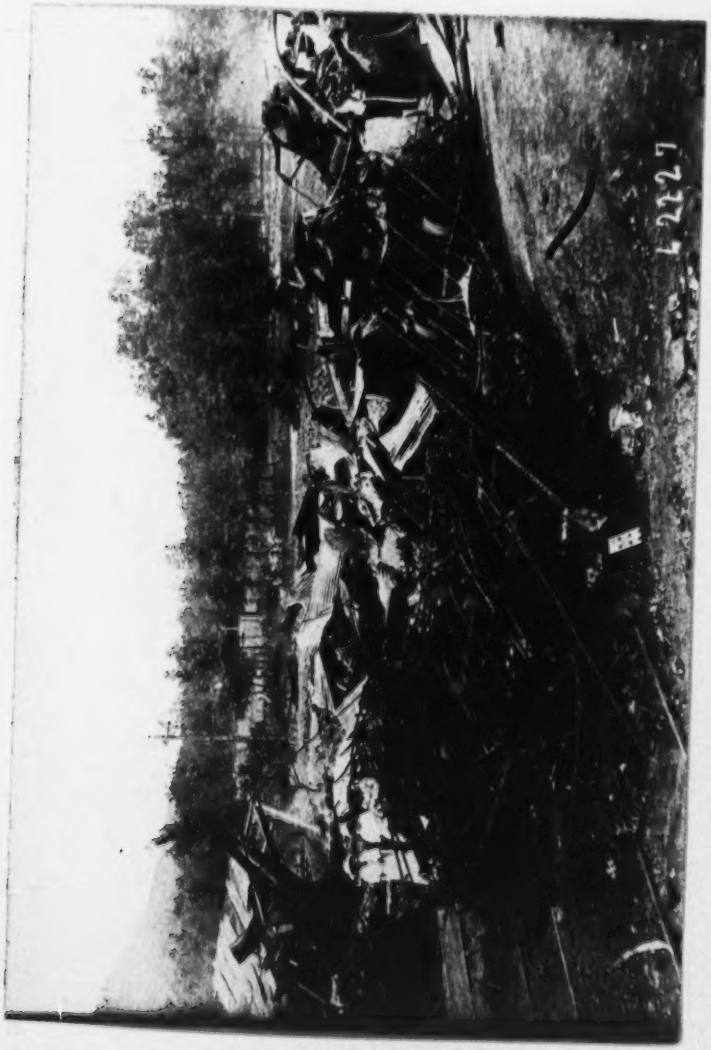


4927 XXII.

Plaintiff's Exhibit No. 97 showing Prairie Creek Mine No. 4 on July 19, 1914.

4928 XXIII.

Plaintiff's Exhibit No. 89 showing Prairie Creek No. 4 Tipple July 19, 1914.



4929

XXIV.

Plaintiff's Exhibit No. 90 showing shaft at mouth of Prairie Creek No. 4 on July 19, 1914.

4930 XXV.

Plaintiff's Exhibit No. 91, showing Prairie Creek No. 4, July 19, 1914.

4931 XXVI.

Plaintiff's Exhibit No. 94 showing the slope of Prairie Creek No. 3 on July 20, 1914.

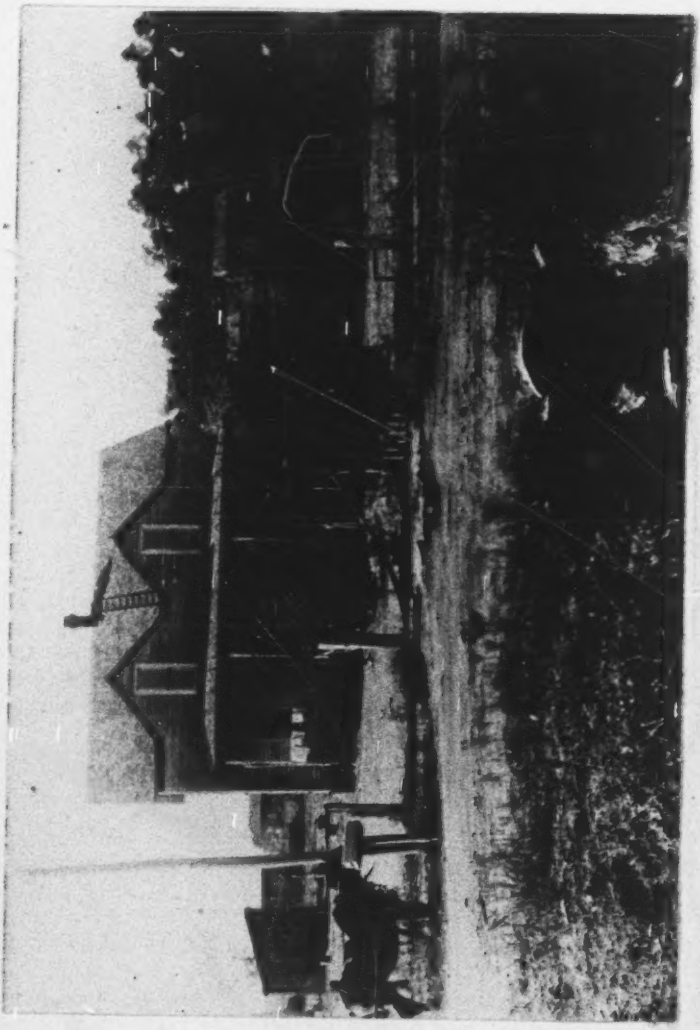
4932 XXVII.

Plaintiff's Exhibit No. 92, showing the Coronado

4933

XXVIII.

Defendant's Exhibit No. 26, showing culvert through which Mrs. Gooden crawled on night of shooting at "Frog Town."



4934

XXIX.

That there was introduced in evidence and read to the jury a Bill of Lading issued by the Midland Valley Railway Company on July 16, 1914, for a car of coal shipped by the Mammoth Vein Coal Mining Company, consigned to the McAlester Fuel Company, destination Natchitoches, Louisiana, which said bill of lading is in the hands of the clerk as a part of the files in this case; that it was referred to in the bill of exceptions, and was considered as being a part thereof at the time of filing and approving the bill of exceptions in this cause, and it is a part of the record in the cause.

XXX.

That, while the court was charging the Jury, at the close of the case, the plaintiffs requested and at their request the court gave the following three written instructions:

1. While the Sherman Anti-Trust Act provides that the actual damages found by the jury to have been caused by reason of violations of that law shall after the jury's verdict be trebled by the court, this circumstance is not to be considered by you in determining the amount of the verdict in case you find that the plaintiff is entitled to damages. The amount of such damages should be fixed by you entirely irrespective of the fact that under the law the verdict will be automatically trebled by the court. This trebling by the court of damages found by the jury was prescribed by Congress in framing the Act, for reasons which Congress considered sufficient. For the purpose of this case it is your duty, if you find that the defendants have damaged the plaintiffs in violation of the Act, to fix the actual amount of such damage making no allowance for any increase thereof by the court in pursuance of the provisions.

4935 To the giving of above instruction No. 1 requested by the plaintiffs, the defendants at the time duly separately and severally saved their exceptions.

2. The aggregate par value of the stock of a corporation is no indication of the value of its property and this is especially true where the entire stock is owned by one person or by another corporation. While the law in many states forbids a capitalization in excess of the value of the property of the Company, it is entirely legal for a corporation to have its capital at a nominal figure. The mere fact that the Mammoth Vein Coal Mining Coal Company had a capital of but $100 divided into 100 shares of one dollar each is no indication what-

ever as to what the real value of its property in April or July 1914.

To the giving of above instruction No. 2 requested by the plaintiffs, the defendants at the time duly separately and severally saved their exceptions.

3. There is evidence that a certain part of the equipment and machinery at certain of the plaintiffs mines was held by them under contracts or leases from the Kali-Inla Coal Company. These contracts or leases, however, contain a provision by which the lessee, the operating Company, is made liable to the lessor " in case of its destruction in any manner whatsoever." In view of these leases, if you find that the defendants were responsible for the destruction of or injury to any such machinery, the lessees, the operating companies, may recover on account thereof, with the same effect, as between these plaintiffs and defendants, as if they owned it outright.

To the giving of the above instruction No. 3 as requested by the plaintiffs, the defendants at the time duly separately and severally saved their exceptions.

4936 And the above named defendants further state, that during the trial a large number of maps and drawings were introduced in evidence and exhibited to the jury, by the plaintiffs and defendants, and are a part of the record in this case; that the said maps and drawings are so numerous and voluminous that it is impracticable to incorporate them in the transcript; that it will be more practicable, and the case can be better presented to the Court of Appeals on a hearing in that court if the originals of such maps and drawings, or copies thereof sustituted under orders of the court made at the trial, are before that Court at the hearing there; that said maps and drawings, or true copies thereof substituted by the parties under the orders of the court, are now on file in the office of the clerk of the District Court and are a part of the record in this case; that the said photographs, documents and evidence and instructions were through clerical error omitted from the bill of exceptions at the time it was prepared for submission to the court for approval, and they were not set out in said bill for that reason at the time it was approved, although they were each and all considered as being a part of said bill of exceptions and constituted a part of the record of the case.

Wherefore, the above named defendants severally pray the court for an order amending and correcting the Bill of Exceptions so as to include all of said photographs, documentary evidence and instructions aforesaid, and directing the clerk

of this court to incorporate in the transcript of the record of this case for the United States Circuit Court of Appeals for the Eight Circuit all of the photographs, documentary evidence and instructions hereinbefore set out and referred to.

And the above named defendants further pray that the
4937 clerk of this court be directed by proper order to transmit to the Clerk of the United States Circuit Court of Appeals for the Eighth Circuit, in connection with the transcript of this case, all of the maps and drawings that were introduced in evidence in the case.

HENRY WARRUM,
COVINGTON & GRANT,
Attorneys for Defendants.

FORM 140-A REV.

(Bill of Lading.)

Uniform Bill of Lading—Standard form of Order Bill of Lading approved by the Interstate Commerce Commission by Order No. 787 of June 27, 1908.

4938-a

MIDLAND VALLEY RAILROAD COMPANY

"ARKANSAS RIVER ROUTE"

ORDER BILL OF LADING—ORIGINAL

Shipper's No. 1265

Agent's No.

Ptf 113 J.K.P.

RECEIVED, subject to the classifications and tariffs in effect on the date of issue of this Original Bill of Lading.

at Midland, Ark. 7-16 1914

from Mammoth Vein Coal Mining Co. the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned and destined as indicated below, which said Company agrees to carry to its usual place of delivery at said destination, if on its road, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions, whether printed or written, herein contained (including conditions on back hereof) and which are agreed to by the shipper and accepted for himself and his assigns.

The surrender of this Original ORDER Bill of Lading properly endorsed shall be required before the delivery of the property. Inspection of property covered by this bill of lading will not be permitted, unless provided by law, or unless permission is endorsed on this original bill of lading, or given in writing by the shipper.

The Rate of Freight From _____

to _____ *is in Cents per 100 lbs.*

If ... times 1st	If 1st Class	If 2d Class	If 3d Class	If 4th Class	If 5th Class	If Class A	If Class B	If Class C	If Class D	If Class E	If Special per ...

(Mail Address—Not for purposes of Delivery.)

Consigned to ORDER OF McAlester Fuel Co.

Destination Natchitoches State of La. County of

Notify Natchitoches Elec. Lt. & W. Wks.

At Natchitoches State of La. County of

Route M V K C S % T. & P. M. V. R. R. 27508 Claim Car Initial M V Car No. 1460

No. Packages	DESCRIPTION OF ARTICLES AND SPECIAL MARKS	Weight (Subject to Correction)	Class or Rate	Check Column
	Bache-Denman Smokeless M-Run Coal			
		1190		
		345		
		845		
	Loaded to full visible capacity			
	will not hold more			

If charges are to be prepaid, write or stamp here, "To be Prepaid."

Received $ _____ to apply in prepayment of the charges on the property described hereon.

Agent or Cashier.

Per _____

(The signature here acknowledges only the amount prepaid.)

Charges Advanced:

$ _____

Mammoth Vein Coal Mining Co. **Shipper.** _____ **Agent.**

Per B. T. Moore **Per** R. B. Partlow

(THIS BILL OF LADING IS TO BE SIGNED BY THE SHIPPER AND AGENT OF THE CARRIER ISSUING SAME.)

ENDORSEMENTS

THE McALESTER FUEL COMPANY
By Jas. T. O'Leary, Treas.

CONDITIONS

Sec. 1. The carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto, except as hereinafter provided.

No carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto or delay caused by the act of God, the public enemy, quarantine, the authority of law, or the act or default of the shipper or owner or for differences in the weights of grain, seed, or other commodities caused by natural shrinkage or discrepancies in elevator weights. For loss, damage, or delay caused by fire occurring after forty-eight hours (exclusive of legal holidays) after notice of the arrival of the property at destination or at port of export (if intended for export) has been duly sent or given, the carrier's liability shall be that of warehouseman only. Except in case of negligence of the carrier or party in possession (and the burden to prove freedom from such negligence shall be on the carrier or party in possession), the carrier or party in possession shall not be liable for loss, damage, or delay occurring while the property is stopped and held in transit upon request of the shipper, owner, or party entitled to make such request; or resulting from a defect or vice in the property or from riots or strikes. When in accordance with general custom on account of the nature of the property, or when at the request of the shipper the property is transported in open cars, the carrier or party in possession (except in case of loss or damage by fire, in which case the liability shall be the same though the property had been carried in closed cars) shall be liable only for negligence, and the burden to prove freedom from such negligence shall be on the carrier or party in possession.

Sec. 2. In issuing this bill of lading this company agrees to transport only over its own line, and except as otherwise provided by law acts only as agent with respect to the portion of the route beyond its own line.

No carrier shall be liable for loss, damage, or injury not occurring on its own road or its portion of the through route, nor after said property has been delivered to the next carrier, except as such liability is or may be imposed by law, but nothing contained in this bill of lading shall be deemed to exempt the initial carrier from any such liability so imposed.

Sec. 3. No carrier is bound to transport said property by any particular train or vessel, or in time for any particular market, or otherwise than with reasonable despatch, unless by specific agreement indorsed hereon. Every carrier shall have the right in case of physical necessity to forward said property by any railroad or route between the point of shipment and the point of destination; but if such diversion shall be from a rail to a water route the liability of the carrier shall be the same as though the entire carriage were by rail.

The amount of any loss or damage for which any carrier is liable shall be computed on the basis of the value of the property (being the bona-fide invoice price, if any, to the consignee, including the freight charges, if prepaid) at the place and time of shipment under this bill of lading unless a lower value has been represented in writing by the shipper or has been agreed upon or is determined by the classification or tariffs upon which the rate is based, in any of which events such lower value shall be the maximum amount to govern such computation, whether or not such loss or damage occurs from negligence.

Claims for loss, damage, or delay must be made in writing to the carrier at the point of delivery or at the point of origin within four months after delivery of the property, or, in case of failure to make delivery, then within four months after a reasonable time for delivery has elapsed. Unless claims are so made the carrier shall not be liable.

Any carrier or party liable on account of loss of or damage to any of said property shall have the full benefit of any insurance that may have been effected upon or on account of said property, so far as this shall not avoid the policies or contracts of insurance.

Sec. 4. All property shall be subject to necessary cooperage and baling at owner's cost. Each carrier over whose route cotton is to be transported hereunder shall have the privilege, at its own cost and risk, of compressing the same for greater convenience in handling or forwarding, and shall not be held responsible for deviation or unavoidable delays in procuring such compression. Grain in bulk consigned to a point where there is a railroad, public, or licensed elevator, may (unless otherwise expressly noted herein, and then if it is not promptly unloaded) be there delivered and placed with other grain of the same kind and grade without respect to ownership, and if so delivered shall be subject to a lien for elevator charges in addition to all other charges hereunder.

Sec. 5. Property not removed by the party entitled to receive it within forty-eight hours (exclusive of legal holidays), after notice of its arrival has been duly sent or given may be kept in car, depot, or place of delivery of the carrier, or warehouse, subject to a reasonable charge for storage and to carrier's responsibility as warehouseman only, or may be, at the option of the carrier, removed to and stored in a public or licensed warehouse at the cost of the owner and there held at the owner's risk and without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

The carrier may make a reasonable charge for the detention of any vessel or car, or for the use of tracks after the car has been held forty-eight hours (exclusive of legal holidays), for loading or unloading, and may add such charge to all other charges hereunder and hold such property subject to a lien therefor. Nothing in this section shall be construed as lessening the time allowed by law or as setting aside any local rule affecting car service or storage.

Property destined to or taken from a station, wharf, or landing at which there is no regularly appointed agent shall be entirely at risk of owner after unloaded from cars or vessels or until loaded into cars or vessels, and when received from or delivered on private or other sidings, wharves, or landings shall be at owner's risk until the cars are attached to and after they are detached from trains.

Sec. 6. No carrier will carry or be liable in any way for any documents, specie, or for any articles of extraordinary value not specifically rated in the published classification or tariffs, unless a special agreement to do so and a stipulated value of the articles are indorsed hereon.

Sec. 7. Every party, whether principal or agent, shipping explosive or dangerous goods, without previous full written disclosure to the carrier of their nature, shall be liable for all loss or damage caused thereby, and such goods may be warehoused at owner's risk and expense or destroyed without compensation.

Sec. 8. The owner or consignee shall pay the freight and all other lawful charges accruing on said property, and, if required, shall pay the same before delivery. If upon inspection it is ascertained that the articles shipped are not those described in this bill of lading, the freight charges must be paid upon the articles actually shipped.

Sec. 9. Except in case of diversion from rail to water route, which is provided for in section 3 hereof, if all or any part of said property is carried by water over any part of said route, such water carriage shall be performed subject to the liabilities, limitations, and exemptions provided by statute and to the conditions contained in this bill of lading not inconsistent with such statutes or this section, and subject also to the condition that no carrier or party in possession shall be liable for any loss or damage resulting from the perils of the lakes, sea, or other waters; or from explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, machinery, or appurtenances; or from collision, stranding, or other accidents of navigation, or from prolongation of the voyage. And any vessel carrying any or all of the property herein described shall have the liberty to call at intermediate ports to tow and be towed, and assist vessels in distress, and to deviate for the purpose of saving life or property.

The term "water carriage" in this section shall not be construed as including lighterage across rivers or in lake or other harbors, and the liability for such lighterage shall be governed by the other sections of this instrument.

Sec. 10. Any alteration, addition or erasure in this bill of lading which shall be made without an indorsement thereof hereon, signed by the agent of the carrier issuing this bill of lading, shall be without effect, and this bill of lading shall be enforceable according to its original tenor.

MERCHANTS & FARMERS 7394

4939 (Order, April 25, 1918, as of February 7, 1918, amending Bill of Exceptions etc.)

Before Judge Elliott.

Now on this day the defendants make application to the court for an order amending and correcting the Bill of Exceptions approved on the 7th day of February, 1918, in the above styled and numbered cause; and the plaintiffs and defendants agreeing that the amendment and correction may be made, and the court being advised in the premises, finds the facts with reference to said application to be as follows:

1. That at the trial of this cause the parties hereto introduced in evidence and exhibited to the jury all of the photographs set out in the application, and each and every of said photographs were at the time made a part of the record in the cause, and identified as a part thereof.

2. That at the trial of the cause the bill of lading referred to in said application was introduced in evidence, exhibited to the jury and at the time made a part of the record in the cause, and identified as a part thereof.

3. That at the close of the trial, when the court was delivering the Charge to the Jury, the plaintiffs requested the court to give, and it gave to the jury, plaintiffs instructions numbered, one, two and three, the defendants at the time duly separately and severally excepting to each of said instructions and their said exceptions were noted of record.

4. That at the time of presenting said bill of exceptions to the court and Judge thereof for approval the
4940 said photographs bill of lading and instructions were not set out in full and physically incorporated therein, but were considered by the court and the parties plaintiffs and defendants as constituting a part of said bill of exceptions, and through misprision they were omitted from the bill of exceptions.

And it appearing to the court that said bill of exceptions should contain each and all of said photographs, the bill of lading and instructions, and the plaintiffs and defendants agreeing thereto, it is by the court considered, ordered and adjudged that the said bill of exceptions be and it is hereby amended and corrected so as to include each and all of said photographs, the bill of lading, and the three said instructions, together with the exceptions saved by the several defendants, as set forth in the application as follows:

1. The cartoon taken from the United Mine Workers Journal of date June 11, 1918.

2. The cartoon taken from the United Mine Workers Journal of date August 28, 1913.

3. The cartoon taken from the United Mine Workers Journal of date July 16, 1914.

4. Plaintiffs exhibit No. 61, showing the relief map of the vicinity of Prairie Creek, Sebastian County, Arkansas.

5. Plaintiffs exhibit No. 62, which is a duplicate of plaintiffs exhibit No. 69, being a photograph of the Coronado Tipple on November 19, 1913.

6. Plaintiffs exhibit No. 63, being a duplicate of plaintiffs exhibit No. 63, a photograph showing the Rock Island Tipple in connection with Mammoth Vein Mine No. 1, November 19, 1913.

7. Plaintiffs exhibit No. 64, being a photograph show-
4941 ing Mammoth Vein Mine No. 6, on November 19, 1913.

8. Plaintiffs exhibit No. 65, which is a duplicate of plaintiffs exhibit No. 75, being a photograph showing Mr. Heber Denman in Mammoth Vein Mine No. 1, prior to July 17, 1914.

9. Plaintiffs exhibit No. 66, which is a duplicate of plaintiffs exhibit No. 72, being a photograph of the Dallas Mine November 13, 1914.

10. Plaintiffs exhibit No. 67, which is a duplicate of plaintiffs exhibit No. 70, being a photograph showing the Midland Valley Tipple at Mammoth Vein Mine No. 1, on November 19, 1913.

11. Plaintiffs exhibit No. 68, which is a duplicate of plaintiffs exhibit No. 75, being a photograph showing Prairie Creek Mine No. 4, on November 19, 1913.

12. Plaintiffs exhibit No. 76, being a photogaph showing the engine and boiler room of Prairie Creek Mine No. 3, June 20th, 1914.

13. Plaintiffs exhibit No. 77, being a photograph showing the boiler room of Prairie Creek Mine No. 3, on July 20, 1914.

14. Plaintiffs exhibit No. 78, which is a duplicate of plaintiffs exhibit No. 95, being a photograph showing tipple and mine at Prairie Creek Mine No. 3, on July 20, 1914.

15. Plaintiffs exhibit No. 81, which is a duplicate of plaintiffs exhibit No. 96, being a photograph showing Mammoth Vein Mine No. 1, (Midland Valley Tipple) July 20, 1914.

16. Plaintiffs exhibit No. 82, being a photograph showing a view of the Mammoth Vein Mine No. 1 (Midland Valley Tipple) on July 20, 1914.

17. Plaintiffs exhibit No. 83, being a photograph showing Mammoth Vein Mine No. 1 on July 20, 1914.

4942 18. Plaintiffs exhibit No. 84, being a photograph showing the Rock Island Dump and Tipple Site at Mammoth Vein Mine No. 1, (Midland Valley Tracks) July 20, 1914.

19. Plaintiffs exhibit No. 85, being a photograph showing the slope at Mammoth Vein Mine No. 1 on July 20, 1914.

20. Plaintiffs exhibit No. 86, being a photograph showing the boiler house at Mammoth Vein Mine No. 1, July 20, 1914.

21. Plaintiffs exhibit No. 87, being a photograph showing Mammoth Vein Mine No. 1, (Midland Valley Tipple) July 20, 1914.

22. Plaintiffs exhibit No. 97, being a photograph showing Prairie Creek Mine No. 4, July 19, 1914.

23. Plaintiffs exhibit No. 89, being a photograph showing Prairie Creek Mine No. 4 Tipple on July 19, 1914.

24. Plaintiffs exhibit No. 90, being a photograph showing the shaft at Mouth of Prairie Creek Mine No. 4, July 19, 1914.

25. Plaintiffs exhibit No. 91, being a photograph showing Prairie Creek Mine No. 4, July 19, 1914.

26. Plaintiffs exhibit No. 94, being a photograph showing Prairie Creek Mine No. 3, July 20, 1914.

27. Plaintiffs exhibit No. 92, which is a duplicate of plaintiffs exhibit No. 98, being a photograph of the Coronado Mine after the fire—July 20, 1914.

28. Defendants exhibit No. 26, being a photograph showing a culvert through which Mrs. Gooden crawled on the night of shooting at "Frog Town."

29. The Bill of Lading issued by the Midland Valley Railway Company on July 16, 1914, for a car of coal shipped by the Mammoth Vein Coal Mining Company, consigned to the McAlester Fuel Company, destination Natchitoches, Louisiana.

30. The instructions requested by the plaintiffs and
4943 given by the court, numbered 1, 2 and 3, together with the exceptions saved by the several defendants to each of said instructions.

And the said photographs, bill of lading and instructions referred to herein, being in the hands of the clerk of this court and a part of the record of the cause, and properly belonging in the bill of exceptions, the clerk of the court is hereby ordered and directed to copy and insert the same into the bill of exceptions, as of the 7th day of February 1918 and this order is made now for then.

It further appearing to the court, and it being the opinion of the Judge presiding at the trial of this cause in the District Court, that it is proper for the original maps and drawings introduced in evidence at the trial of this cause to be inspected by the United States Circuit Court of Appeals for the Eighth Circuit, at a hearing of this cause in that court, the clerk of this court is hereby directed and ordered to safely keep all of said maps and drawings, and to safely transport them to the said United States Circuit Court of Appeals for the Eighth Circuit in connection with the transcript and proceedings in this cause.

By the court:

JAS. D. ELLIOTT, Judge.

Received, filed and entered April 25, 1918. Wm. S. Wellshear, Clerk.

4944 (Clerk's Certificate to Transcript.)

I, Wm. S. Wellshear, Clerk of the District Court of the United States for the Western District of Arkansas, certify the foregoing and annexed transcript, which is herewith transmitted in obedience to the command of the accompanying Writ of Error to be and constitute a true and correct copy of the

record, bill of exceptions, assignment of errors and proceedings in the case of Coronado Coal Company, et al, vs. United Mine Workers of America, et al, No. 553 Law, lately pending in said court in Fort Smith Division of said District, in accordance with the precipe of Counsel, and as the same appear from the files and records of my said office. Said transcript contains pages 1 to 4943 inclusive, bound in ten volumes.

Citation in said cause, with waiver of service, is hereto annexed and transmitted herewith.

In Testimony Whereof, I hereunto set my hand and affix the seal of said court at office in the City of Fort Smith, Arkansas, this 26th day of April, 1918.

Seal
U. S. A.
District Court,
West. Dist. of Ark.

WM. S. WELLSHEAR, Clerk.

Filed Apr. 27, 1918. E. E. Koch, Clerk.

3412 And thereafter the following proceedings were had in said cause, in the Circuit Court of Appeals, viz:

(Appearance of Mr. Henry Warrum and Messrs. Covington & Grant as Counsel for Plaintiffs in Error.)

United States Circuit Court of Appeals, Eighth Circuit.

United Mine Workers of America, et al., Plaintiffs in Error,
No. 5154. vs.
Coronado Coal Company, et al.

The Clerk will enter my appearance as Counsel for the Plaintiffs in Error.

G. L. GRANT,
Fort Smith.
WEBB COVINGTON,
Fort Smith, Ark.
HENRY WARRUM,
Indianapolis, Ind.

(Endorsed): Filed in U. S. Circuit Court of Appeals, Apr. 27, 1918.

(Appearance of Mr. Alton B. Parker as Counsel for Plaintiffs in Error.)

The Clerk will enter my appearance as Counsel for the Plaintiffs in Error.

ALTON B. PARKER,
111 Broadway, New York.

3413 (Endorsed): Filed in U. S. Circuit Court of Appeals, Sep. 30, 1918.

(Appearance of Mr. James B. McDonough as Counsel for Defendants in Error.)

The Clerk will enter my appearance as Counsel for the Defendants in Error.

JAMES B. McDONOUGH.

(Endorsed): Filed in U. S. Circuit Court of Appeals, Sep. 21, 1918.

(Appearance of Mr. Henry S. Drinker, Jr., as Counsel for Defendants in Error.)

The Clerk will enter my appearance as Counsel for the Defendants in Error.

HENRY S. DRINKER, JR.

(Endorsed): Filed in U. S. Circuit Court of Appeals, Sep. 23, 1918.

(Appearance of Mr. Roger B. Hull as Counsel for Defendants in Error.)

The Clerk will enter my appearance as Counsel for the Defendants in Error.

ROGER B. HULL,
Major, Judge Advocate, U. S. A.
Camp Greene, N. C.

(Endorsed): Filed in U. S. Circuit Court of Appeals, Oct. 2, 1918.

3414 (Order of Submission.)

December Term, 1918.

Tuesday, December 10, 1918.

This cause having been called for hearing in its regular order, argument was commenced by Mr. Alton B. Parker for plaintiffs in error and continued and concluded by Mr. John S. Drinker, Jr., and Mr. James B. McDonough for defendants in error.

Thereupon, this cause was submitted to the Court on the transcript of the record from said District Court and the briefs of counsel filed herein, and if it is deemed advisable the same will be submitted on the record and briefs to a third judge.

(Submission to third Judge.)

December Term, 1918.

Saturday, March 22, 1919.

This cause having heretofore been submitted to the Court composed of Judges Hook and Trieber and it being deemed advisable that the same be submitted to a third Judge, this

cause is now submitted without oral argument to Honorable Walter H. Sanborn as a third judge on the transcript of record from said District Court and the briefs of counsel filed herein.

3415 (Opinion.)

United States Circuit Court of Appeals Eighth Circuit.

December Term, A. D. 1918.

In Error to the District Court of the United States for the Western District of Arkansas.

United Mine Workers of America, et al., Plaintiffs in Error,
No. 5254. vs.
Coronado Coal Company, et al., Defendants in Error.

This was an action by two receivers of nine corporations appointed by the court below in one proceeding in equity, in which these nine corporations were defendants.

The basis of the action is to recover damages for the destruction of the property of these corporations in the possession of the receivers, they being engaged in mining, selling, and shipping coal from Sebastian County, Arkansas, seventy-five per cent of which shipments were made to customers outside of the State of Arkansas, in the course of interstate trade and commerce. The complaint charges that the destruction of the property was by some of the defendants, and was committed in pursuance of a conspiracy and combination formed by all the defendants, in restraint of trade and commerce, among the several states, in violation of the Act of Congress of July 2, 1890, 26 Stat. 209, (The Sherman Anti-Trust Act), and amendments.

Among the defendants named are the United Mine Workers of America, District Union No. 21, and 28 local Unions of the District Union, the other defendants being officers of the Head and district Unions and members of the local Unions.

3416 None of the Unions is incorporated, but they are all voluntary associations of mine workers throughout the United States. The headquarters of the National organization of the defendant United Mine Workers of America are located in Indianpolis, in the State of Indiana.

It is charged that the members of said associations are subdivided into about thirty districts, and numerous local Unions in each district. Each district Union has jurisdiction of the

local Unions within its district, and the United Mine Workers over all.

Other allegations as to the Unions are set out in the opinion of this court in Dowd vs. United Mine Workers of America, 235 Fed. 1, 2, 148 C. C. A. 495, when this case was before this court before, and it is therefore unnecessary to restate them. The present receivers are the successors of Dowd, who was the plaintiff when this action was instituted. There were three amended complaints filed, and later amendments to certain paragraphs of the last amended complaint. After the demurrers to the third amended complaint, motion to quash service of process and a motion to strike parts of the third amended complaint had been overruled, defendant filed their answers.

They denied that the plaintiffs were engaged in interstate trade and commerce, and in effect denied all the material allegations of the complaint.

Then they alleged that the United Mine Workers of America is a Labor Union composed of more than four hundred thousand working men in the United States, Canada and Mexico, engaged in the digging of coal, organized in an unincorporated society; that it has no legal entity apart from its membership, is not engaged in business for profit, but has for its objects, shorter working hours for its members, reasonable compensation for services rendered, and the betterment of general working conditions for its members, as shown by its constitution, a copy of which was filed; that no member or members, officer or officers is authorized to act for, or in behalf of, or to represent it beyond the scope, provisions and terms of such constitution, and if any members of the organization committed the torts complained of, their acts were beyond the scope, provisions and terms of the constitution, and therefore not binding upon the Union.

3417 There was a trial to a jury and a verdict for the plaintiffs, on which judgment was entered for treble the amount of the verdict. Four days after the rendition of the verdict by the jury plaintiffs filed a motion to amend the judgment by adding interest from the date of the destruction of the property to the date of entering the judgment, although the verdict made no allowance of interest. This motion was, by the court, several months later, sustained and the judgment amended by adding treble the interest at the rate of six per cent.

Mr. Alton B. Parker (Messrs. Covington & Grant, and Mr. Henry Warrum were with him on the brief), for plaintiffs in error.

Mr. Henry S. Drinker, Jr., and Mr. James B. McDonough (Mr. Robert B. Hull was with them on the brief), for defendants in error.

Before Sanborn and Hook, Circuit Judges, and Trieber, District Judge.

Trieber, District Judge, after stating the facts as above, delivered the opinion of the Court.

The record is very voluminous, covering over thirty-four hundred printed pages. There are 184 assignments of error, but counsel in their briefs and oral arguments only insisted upon those hereinafter mentioned, and we will, therefore, confine this opinion to those assignments and in the order presented by counsel.

1. The defendants insist that it was error to hold the Unions which were made defendants, as entities, against which an action could be instituted, process had and judgment recovered, they being unincorporated labor Unions.

This question was determined by this court on the former hearing, sub nomine, Dowd vs. United Mine Workers of America, 235 Fed. 1, 148 C. C. A. 495, and it was there held
3418 that under the Sherman Anti-Trust Act, these unincorporated Unions may be sued by one injured in his business or property by reason of anything done which is forbidden by the Sherman Act. That decision is the law of the case, and cannot now be again reviewed. In re Sanford Fork & Tool Co., 160 U. S. 247; National Bank of Commerce vs. United States, 224 Fed. 679, 140 C. C. A. 219; Continental, etc., Bank vs. North Platte Valley Irrigation District, 237 Fed. 188, 150 C. C. A. 334; Griggs vs. Nadeau, 250 Fed. 781, ...C. C. A. .....

2. It is next claimed that there was a misjoinder of plaintiffs and of their causes of action, and that the demurrer to the complaint on that ground should have been sustained.

In order to understand the issues involved in this motion, it is proper to state that the complaint alleges that the nine corporations for which the plaintiffs as receivers sued, were under the control of the same persons, who owned all the shares of stock of all nine corporations and all were operated as one, eight of them being subsidiaries of the Bache-Denman Coal

Company; that by reason of these facts, the destruction by the defendants, of the property of said corporations, they sustained the losses jointly; that by reason of the unlawful acts of the defendants the plaintiffs were prevented from operating any of the mines, they being in close proximity in the Prairie Creek Valley, in Sebastian County, Arkansas. It is further alleged that the receivers were appointed by the District Court by a single decree, in one action.

That under the Code of Practice of the State of Arkansas, in which state the wrongs were committed and this cause tried, it was proper to join all the plaintiffs' causes of action, all of them arising out of the same torts, committed by the same persons at the same time, and in pursuance of the same alleged conspiracy, has been determined by the Supreme Court of the State ever since the enactment of the Act of May 11, 1905. St. Louis, I. M. & S. Ry. Co. vs. Broomfield, 83 Ark. 288; Southern Anthracite Coal Co. vs. Bowen, 93 Ark. 140; Hargis vs. Lawrence, 136 Ark. 323, 204 S. W. 755. Under the Conformity Act of Congress Sec. 914 Rev. Stat. the State practice controls proceedings at law in the National Courts held in the State, in the absence of an Act of Congress. Glenn vs.
3419 Sumner, 132 U. S. 152, 156; Sawin vs. Kenny, 93 U. S. 289; O'Connell vs. Reed, 56 Fed. 531, 536, 5 C. C. A. 586; Rush vs. Newman, 58 Fed. 158, 161, 7 C. C. A. 136.

In Kansas City Southern Ry. Co. vs. Leslie, 238 U. S. 599, 603, an action arising under the National Employers' Liability Act, the plaintiff joined two distinct and separate actions caused by the same act of negligence, one to recover damages for the benefit of the estate of the deceased, and the other for the pecuniary loss of the next of kin. There was a verdict in favor of the plaintiff for a lump sum on both causes of action, without any apportionment to the different beneficiaries. This was made one of the assignments of error. Notwithstanding that in Gulf, Colorado, etc., Ry. vs. McGinnis, 228 U. S. 173, it had been held that "Though the judgment may be for a gross amount, the interest of each beneficiary must be measured by his or her individual pecuniary loss. That apportionment is for the jury to return", the judgment entered on the verdict of the jury without apportionment, was upheld, the court holding: "As the challenged verdict seems in harmony with local practice and has been approved by the court below (referring to the Supreme Court of Arkansas) the judgment thereon is not open to attack here upon the ground specified."

But, it is contended that there is an Act of Congress regulating the consolidation of causes, (Sec. 921 Rev. Stat.), and that in Mutual Life Insurance Co. vs. Hillmon, 145 U. S. 285, this has been construed adversely to the ruling of the court below. We do not so construe the opinion of the court. What the court decided was that, "Where the English consolidation rule has not been adopted, the American courts, state and federal, have exercised the authority of ordering several actions by one plaintiff against different defendants to be tried together, whenever the defence is the same, and unnecessary delay and expense will be thereby avoided." The court then proceeded: "But although the defendants might lawfully be compelled, at the discretion of the court, to try the cases together, the causes of action remain distinct, and required separate verdicts and judgments; and no defendant could be deprived, without its consent, of any right material to its
3420 defence, whether by way of challenge of jurors, or of objection to evidence, to which it would have been entitled if the cases had been tried separately."

In the instant case there was no consolidation of actions, but assuming, without deciding, that the same rule applies to actions originally brought by several plaintiffs or against several defendants, which could properly be consolidated under that section, objection can only be made if the parties are deprived of a right material to their defense, "Whether by way of challenge of juror or of objection to evidence to which it would have been entitled if the causes had been tried separately." Of course, such rights can only be claimed at the trial of the cause, and not by demurrer to the complaint. There is no claim that the defendants were deprived of either of these rights at the trial. To entitle the defendants to insist in the appellate court that they were entitled to more than three peremptory challenges of jurors, that right must be claimed at the trial, and also that the parties complaining had exhausted their right of peremptory challenges. It was so held in the Connecticut Mutual Life Insurance Co. vs. Hillmon, 188 U. S. 208, 212, when the case, reported in 145 U. S. 285, was for the second time before the Supreme Court. The record here shows that the defendants only challenged one juror peremptorily. It fails to show that they had made any claim to more than three challenges. How then can it be claimed that the court erred, when it was never called on to rule on the question, when the jury was selected, and the defendants were not prejudiced by having exhausted the three challenges?

3. It is claimed that the court erred in requiring the defendants to produce certain books, writings and documents.

If the petitions for the books and documents had failed to specify what books and documents were wanted, or did not make a sufficient showing of their materiality, so that the object was merely an attempt to obtain information, it would have been error to grant the petitions. United States vs. Terminal Railway Association, 154 Fed. 268, 272, and authorities cited. But each of the petitions set out and described the documents wanted, and the reasons for their materiality. All, except the first petition, were against the defendants as officers of the organization, to produce books and documents in their possession as such officials, which it was alleged were records of their organization. The first petition included them as officers and individuals, but this petition was denied. Sec. 262 Judicial Code, which is a reenactment of Sec. 716 Rev. Stat., authorizes such an order. It was so held in American Lithographic Co. vs. Wereckmeister, 221 U. S. 603, 609. As the orders to produce them were limited to the parties, as officials of the United Mine Workers of America, and not as individuals, the claim that the orders were in violation of the fourth and fifth amendments to the Constitution must also fail. Hale vs. Henkel, 201 U. S. 43, 69; Wilson vs. United States, 221 U. S. 361; Wheeler vs. United States, 226 U. S. 478.

3421

4. Did the court err in allowing the defendants in error to read in evidence extracts from the printed records of the joint conference proceedings, conferences between a large number of coal mine operators, employing only Union Labor, and the officials of the United Mine Workers of America?

To determine this assignment of error, it is necessary to refer to the allegations of the complaint. The complaint, except for some amendments, which are not of sufficient materiality to this issue to require that they set forth, will be found in a note to the former opinion of this court in 235 Fed. page 9.

The last amendment to paragraph 21 gives the names of 231 operators, who had entered into an agreement with the United Mine Workers of America, to employ only Union miners, and conform to the rules of the Union. These were furnished by the plaintiffs in pursuance of an order of the court, made on motion of the defendants. That motion, among other requests, asked that plaintiffs "State the names of the persons acting or assuming to act for the operators, referred to in said paragraph and amendments thereto." The main objec-

tion to the introduction in evidence of these records was "that no proper foundation for their introduction had been laid." The testimony shows that the proceedings of these conferences were taken down stenographically, copies furnished to the United Mine Workers of America, and by it caused to be printed and kept in its archives under the control of its secretary. Before they were introduced in evidence, Mr. Green, the Secretary of the United Mine Workers organization,
3422 testified that the printed reports were "Verbatim reports of the arguments, discussions and propositions of what took place at these conferences, and that the Association caused them to be printed and the printed volumes produced were the ones that came back from the printer." A number of representatives of the operators, and several high officials of the United Mine Workers of America, also testified orally to what took place at these meetings, and all agreed with Mr. Green, the Secretary, that these printed records were correct transcripts of the proceedings of the conferences. As the testimony of the officials of the miners' organization, as well as of the operators, who attended these conferences, verified the correctness of the printed records introduced, how can it be claimed that there was no foundation for the admission in evidence of these records? St. Louis, San Francisco R. R. vs. Duke, 192 Fed. 306, 309, 112 C. C. A. 564 Portland Gold Mining Co. vs. Flaherty, 111 Fed. 312, 49 C. C. A. 361; Wilhite vs. Houston, 200 Fed. 390, 393, 118 C. C. A. 542. The objection to their introduction for want of a proper foundation, is without merit.

5. Were they irrelevant?

The records establish that these conferences between the United Mine Workers and coal operators, who employed only Union labor, were held for the purpose of protecting these operators against competition from non-union or independent operators who were able to produce coal cheaper, owing to the fact that they had the ten hours work day, while in the mines operated by Union labor, the eight hours work day was in force; that the independent operators were not subject to the strict regulations prescribed by the Mine Workers Union, nor did they pay as high wages to the miners. To protect these operators, the records show, the United Mine Workers obligated themselves "to afford all possible protection to the trade, and to the other parties hereto against any unfair competition, resulting from the failure to mantain scale rates." In order to accomplish this the organization pledged itself to attempt to "unionize" all coal mines, and thus, as stated

by Mr. Lewis, its vice-president, "Wipe out competition between us as miners. First, viewing it from our side of the question; next for the purpose of wiping out competition as
3423 between the operators in these four states. When we have succeeded in that and we have perfected an organization on both sides of the question, then, if I understand the real purpose of this movement, it is that we will jointly declare war on every man outside of this competitive field who will do anything in any way endangering the peace that exists between us. What is necessary to do this? Organize our forces in the competing fields, so far as the United Mine Workers are concerned. Go into these outside competing fields and tell your competitors that they have to join this movement, whether they like it or not, and give stability to the coal business of the United States.

In the 1902 Joint Conference, Mr. Robbins, speaking for the operators, complained of defendants, saying: "Four years ago, in the City of Chicago, we agreed to be the advance guard on the question of an eight hour day, with the distinct and absolute promise that unless our competitors were brought up to the same conditions that we would be put back where we were. And what is the result? None of our competitors have been brought up. In no place that we compete, that I know of, has the eight hour day been established. We are competing constantly with operators that still have a ten hour day. Their cost is proportionately less." When the miners' convention met that year, the following resolution was adopted in order to carry out the pledges made to the operators:

Resolution 33.

"Whereas, the miners of Virginia and Kentucky in the past have been a detriment to the organization in other States by their not being organized; therefore

"Be It Resolved, That our National organization shall use its power in all forms to bring these miners into the organization."

In the convention of the Mine Workers in 1904 the following resolutions, introduced by a representative of a local Union from District 21 (Arkansas, Oklahoma and Texas) was adopted:

"Resolved, That in strict compliance with our obligations and teaching, we accord a hearty approval to our National Board on its action in regard to District No. 15, strike, now on.

in Colorado, and whatever action taken by the National
3424 that in their judgment is necessary to the successful ending, in the elevation of the craft in District No. 15 meets our entire approval, for which we pledge our unqualified support, as our knowledge of the field of Southern Colorado in the event of an unsuccessful issue of the trouble now pending would work almost unsurmountable and incalculable damage to District No. 21, as it would be an unjust competitor in the same commercial field and could with very little effort undersell and supersede us in the Oklahoma and Southwestern Kansas markets."

Without setting out in full all the agreements between the miners and the union operators, and the resolutions of the miners at their conventions, for the purpose of carrying out these agreements, it clearly appears from these records that the United Mine Workers were pledged and determined to unionize all coal mines in the non-union districts, for the purpose of protecting the operators in the district in which the mines had been unionized, in competitive markets in other States, and in order to appease these operators, who complained at every joint conference, that they were unable to comply with their agreements with the organization, and compete with the independent operators, unless they are unionized. The objection is without merit.

6. The objection to the introduction of the United Mine Workers Journal is equally untenable. The Secretary of the organization, testified that "It is the official publication of the organization, published by authority and under the supervision of the International Executive Board of the United Mine Workers of America; that its editor is appointed by the president of the International Union." Therefore, the editorials which were published in almost every issue of the Journal, must be deemed the acts of the organization. They were clearly admissible.

As the action is one for conspiracy, the law permits great latitude in the introduction of evidence, tending to establish the conspiracy and connecting those advising, encouraging, aiding, abetting and ratifying the overt acts committed for the purpose of carrying into effect the objects of the conspiracy.

3425 The main issue in this cause, so far as the National organization and its officers were concerned, was whether, the torts committed by some of the defendants, were in pursuance of an unlawful conspiracy, to compel the plaintiffs and

other coal mine operators to unionize their mines, and were authorized, encouraged, advised and if not authorized, ratified by the national organization and its officers, after they had been committed. The court did not err in admitting these journals in evidence. Clune vs. United States, 159 U. S. 590, 593; Hitchman Coal Co. vs. Mitchell, 245 U. S. 229, 249; Louis vs. United States, 218 Fed. 36, 41, 134 C. C. A. 58.

That corporations, and this Association must be treated as such in this action, are liable for the torts of its members or employees, when encouraged in the commission of them, or if ratified thereafter, is well settled. Philadelphia, etc., R. R. vs. Quigley, 62 U. S. 202; Denver, etc., Ry. vs. Harris, 122 U. S. 597; Stewart vs. Wright, 147 Fed. 321, 327, 77 C. C. A. 499. Nor does the doctrine of ultra vires apply. National Bank vs. Graham, 100 U. S. 699; Chesapeake & Ohio Ry. vs. Howard, 178 U. S. 153, 160.

7. The admission in evidence of the indictment and pleas of guilty of some of the defendants, members of the local Unions, for the destruction of this property was clearly proper against those defendants, as admissions made by them, and if their unlawful acts were applauded and approved by their co-defendants after having encouraged them in their unlawful acts, such approval is a ratification of these unlawful acts, and makes them liable. Loewe vs. Lawler, 208 U. S. 274; Allis Chalmers Co. vs. Reliable Lodge, 111 Fed. 267; Kroger Grocery & B. Co. vs. Retail Clerks I. & P. Assn., 250 Fed. 890, 897; Alaska Steamship Co. vs. International, etc., Association, 236 Fed. 964.

Whether the acts of those defendants amounted to a ratification was a question to be determined by the jury from the evidence, under proper instructions. If the unlawful acts were in pursuance of a conspiracy and were committed before the unlawful conspiracy had been abandoned, or the object of the conspiracy completed, all persons who were members of the conspiracy or made themselves parties thereto at any time before the conspiracy had been abandoned, or its object completed, are responsible. Thomas vs. United States,
3426 156 Fed. 897, 910, 84 C. C. A. 477; Smith vs. United States, 157 Fed. 721, 728, 85 C. C. A. 353; United States vs. Babcock, 3 Dill. 581, 585, No. 14487 F. C.; Goldfield Consolidated Mines Co. vs. Goldfield Miners Union, 159 Fed. 524. In Hitchman Coal & Coke Co. vs. Mitchell, 245 U. S. 229, 243, Mr. Justice Pitney, speaking for the court in relation to the acts of the head organization, its resolutions, contributions of money to the striking Union men, the encouragement and ap-

proval of the destruction of property, said: "The plain effect of this action was to approve a policy which, as applied to the concrete case, meant that in order to relieve the union miners of Ohio, Indiana, and Illinois from the competition of the cheaper product of the non-union mines of West Virginia, the West Virginia mines should be 'organized' by means of strikes local to West Virginia, the strike benefits to be paid by assessments upon the union miners in the other States mentioned, while they remained at work."

8. What has been said heretofore as to the admissibility of the records of the joint conferences applies also to the records of the meetings of the Executive Board of the United Mine Workers of America.

9. The correspondence between the officials of the Remington Arms Company, showing the purchase of arms and ammunition and payment therefor, by the officers of the United Mine Workers of America, their shipment to Hartford, Arkansas, to the officers of the District and local Unions, their distribution by them to the striking members, shortly before the battle which resulted finally in the destruction of plaintiffs' mines, and their use by them, was admissible as tending to show that the organization aided and encouraged the commission of the torts. But in no event could the admission be prejudicial to the defendants, for there was ample testimony showing that those, who committed these wrongs, were members of the Union, armed with guns and ammunition, which were freely used on the occasions alleged in the complaint.

10. Evidence of the value of the leases held by plaintiffs, and which, by reason of the unlawful acts of the defendants, are shown to have been forfeited, was clearly a part of the damage sustained, and admissible for the purpose of enabling the jury to determine the losses and damages of the
3427 plaintiffs. Section 7 of the Sherman Act provides for three-fold damages sustained by reasons of violations of the provisions of that Act. A lease may be as valuable as any other species of property, and are sold and transferred for valuable considerations in the same manner as any other species of property. It is almost an every day occurrence that oil, coal and other mining leases are sold for large sums of money. The court in its charge to the jury submitted that question fairly, and no exceptions were taken to that part of the charge. All damages which are the natural and proximate results of a tort, are recoverable. United States vs. Behan, 110 U. S. 338; Howard vs. Manufacturing Co. 139 U. S. 199, 206; Farmers Loan & Trust Co. vs. Eaton, 114 Fed. 14, 17. 51

C. C. A. 640; City of Ironton vs. Harrison Construction Co., 212 Fed. 353, 129 C. C. A. 29.

11. Did the court err in refusing to direct a verdict for the defendant, the United Mine Workers of America?

It is contended that the evidence fails to establish a conspiracy in violation of the Sherman Act, which is the gist of the action, and therefore, it is claimed, there can be no recovery in this action.

A great deal of the testimony, relating to the organization of the Mine Workers, their acts to accomplish the object of absolute control of all coal mines, is almost identical with that set out in the opinion of the District Judge in Hitchman Coal & Coke Co. vs. Mitchell, 202 Fed. 512, to which reference is made, in order to shorten this opinion.

The evidence, to our minds, as it was in the opinion of the learned trial judge and the jury, established the conspiracy practically beyond question. It is much stronger than that in the Hitchman Coal & Coke Co. case. To review it fully, covering as it does over three thousand pages of the printed record, would only tend to prolong this opinion, and serve no useful purpose. The law requires that in order to entitle defendants to such a direction, the court must give the evidence the strongest probative effect, and view it in the light most favorable to the plaintiffs, and if there is any substantial evidence to sustain the allegations in the complaint, a peremptory instruction must be refused. This is too well set-
3428 tled to require the citation of authorities. A careful reading of the evidence satisfies that it fully sustains the conclusions of the learned trial judge on these motions.

There was substantial evidence to warrant a finding of the following facts:

That there was concerted action on the part of the Union miners of District No. 21, with the Union miners of the entire national organization and the heads of that organization, tending to demonstrate the idea and motive entertained by the entire organization and all the members of it, that it was necessary, in order to protect the Union workers in the fields already unionized, to unionize the non-union fields, as well as to hold all those which were already unionized.

To attain the objects of the United Mine Workers, to control the mining of coal in the United States, it was deemed to be necessary that they may be in a position to enforce their demands absolutely, secure the unionization of all fields, pre-

vent the production of non-union mined coal, and destroy the competition of non-union mined coal in the markets of the country with union-mined coal.

That the national organization is composed of all of the individual members of the local Unions and by its constitution it is divided into branches, district and local, all subordinate to the national organization. The construction and enforcement of the constitution is placed in the officers of the national organization; the district and local organizations are directly subject to the direction and control of the International Executive Board.

That while the constitution gives to the district organization the power and authority to authorize strikes under certain conditions, it does not delegate exclusive authority, to these district officers. They may order a local strike, but in view of other provisions in the constitution and in the light of the record of the doings of the Executive Board of the national organization, in exercising absolute control over the different districts, this provision seems to be only permissive and was never intended to take the absolute control from the International Executive Board. The National Board, after the local strike was ordered, had the right to supervise and absolutely control the same, and had the right to discipline to the
3429 extent of absolutely taking the charter away from the offending members in the event the orders of such National Board were not complied with.

Article XII, Section 2, of the constitution of the national organization, provides, "Before final action is taken by the District upon questions that * * * may require a strike * * * the President and Secretary of the aggrieved District shall jointup prepare, sign and forward to the National President a statement setting forth the grievance complained of, the action contemplated by the District, together with the reasons therefor, and await the decision of the National President and be governed thereby." The national organization has, undoubtedly, under the constitution, supreme authority. The judgment, discretion, wisdom and power of the entire organization are vested in the national organization, every member of a local union is a member of the national organization and a contributor to its funds.

That prior to April 6, 1914, when mob violence was first resorted to against plaintiffs' mines, communications were had, by telegrams, between officers of the district and members of the local organizations, that employees of the plaintiffs were

on that day and until the final destruction of the property, beaten into insensibility, and that it was all done, in the name at least, of the United Mine Workers of America.

There was evidence that the national officers and officers of the district organization knew what was being done from April 6, 1914, to the day of the destruction of the plaintiffs' property on July 17, 1914, and that no effort was made to stop these unlawful acts of violence by the national organization.

It is established beyond question that the property of the plaintiffs was burned and their mines destroyed in the course of the strike, for the purpose of carrying out the aims, objects and purposes of the national organization, and its objects were thereby attained to the extent of the elimination of the non-union mines of these plaintiffs by the destruction of their property, and thereby kept non-union coal, produced and intended to be produced from these mines, out of inter-
3430 state commerce. There was not a word of criticism by the United Mine Workers of America; no suggestion of discipline—on the other hand, strike benefits were paid, pensions allowed, court costs assumed, and every act committed by these members of the district and local organizations approved by the entire organization.

As to the motion of the other defendants for a directed verdict, there was also substantial evidence tending to establish that on Saturday, April 4th, when plaintiffs' mines were opened as "non-union" or "open shop" mines, a number of the union miners congregated at the mines, some of them attempting to get inside the enclosure. On the next day, Sunday, some minor disturbances occurred, throwing of rocks toward the houses where the non-union employees lived, and calling them opprobrious names. A few days before the opening of the mines, with non-union employees, Mr. Reed, a member of the Union, approached Mr. Argo, a bookkeeper of the plaintiffs', and asked him if the Company was going to run an open shop. He then stated: "That if they did they would not last longer than Pat stayed in the army." On that Sunday a meeting of the Union miners was held at Hartford, and storekeepers there were told to close their stores the next day and go to Prairie Creek for the demonstration to be held there to prevent the opening of the mines with non-union labor.

On Monday, April 6th, large crowds of Union miners and sympathizers met in front of the Union Hall of the Prairie Creek Local Union, about a quarter of a mile from the office of the Prairie Creek Mine No. 4, where speeches were made

by some of the miners, and a committee appointed, which called on the mine superintendent and asked that the Company abandon its attempt to run it as a non-union, one of the committee telling him, "if they didn't want a repetition of Colorado." Meanwhile the crowd, which had accompanied the committee had broken over the ropes of the enclosure and assaulted two of the guards so seriously, that they had to be taken to the hospital at Fort Smith.

To prevent further trouble the mine was closed, and thereupon the miners hoisted an American flag and alongside of it a banner bearing the words: "This is a Union man's
3431 country." The non-union miners were afraid to come out of the mine. Some of the Union men then went in and pulled the fires, assaulted and injured a number of the men. A physician, a sympathizer with the Union miners, was with the strikers, but refused to treat the serious wounds inflicted on one of the non-union men. On the next day the bookkeeper was visited at his home and warned that unless he and his wife left they would be killed. Two weeks later he was assaulted and beaten by the financial secretary of the local Union.

A temporary injunction against the strikers was obtained, but in spite of that, the employees of the plaintiffs were threatened and at various time assaulted. In May the temporary injunction was made permanent by the court. In that month the convention of District No. 21 was held at Ft. Smith, which was attended by the district officers, and also the defendant John P. White, President of the United Mine Workers of America.

A few days later Dan Wilcox, President of the Local Union, at Adamson, Oklahoma, told J. A. Murry, that the miners of Oklahoma "were going to come down to Prairie Creek and clean those scabs out." The latter part of June the Secretary-Treasurer of District 21 purchased rifles from the Remington Arms Company, and from dealers at Hartford and Ft. Smith, twenty-seven high-powered and auto-loading rifles, twenty-eight old Springfield rifles, and several thousand cartridges for the same, which were paid for by checks of the Union. These arms and ammunition were shipped to members of the local Union. Some of them afterwards pleaded guilty to that charge and were sentenced to imprisonment. Two non-union miners, Baskins and Sylsberry, were murdered, while in the custody of a constable.

Mr. Stewart, President of District No. 21, told a deputy Marshal in talking about the injunction: "Damn the injunction! The national government is against us, but the people are with us, and we are going to win."

Some of those working in the mines were told by members of the Union a few days before July 17th, that they had better stay out, as there was going to be trouble. Others
3432 of the employees were also warned to the same effect.

Residents of Frogtown, about half a mile from the Prairie Creek mines, where many of the Union miners lived, were warned by them to leave the village on July 17th, as there would be trouble, and a large number of them left. On that day meetings of the miners were held at Hartford and at Bolen Pond. The Union miners employed in the union mines in the vicinity, did not report for work on that day. About midnight of the night of the 16th, all the lights at the mine went out, and about four o'clock A. M. a number of men fired shots into the Company's property. At seven A. M. they surrounded the mining camp, took possession of number three tipple, and blew it up with dynamite. There was a regular battle then fought between the Company's employees and the Union men. They then set fire to several houses, burned some loaded cars and destroyed the property, as alleged in the complaint. In October another attempt was made to open the mines under the protection of the court, and they were again attacked and the workmen driven off.

The learned counsel for defendants neither in their voluminous brief (326 printed pages) nor in their oral argument question these statements of facts, nor did they seriously attack the sufficiency of the evidence, but they insist that they do not establish that the plaintiffs were engaged in interstate commerce and therefore these acts were not in violation of the Sherman Act. The leading case relied on is United States vs. Knight, 156 U. S. 1, but this case, if not expressly overruled, has been much weakened by the later decisions of the Supreme Court, and it was so held by this court when the case was here before, (235 Fed. 1, 8, 148 C. C. A. 495). As this court, when this case was here before, held that, the alleged wrongs and torts of the defendants charged in the complaint, and which at the trial were established by substantial evidence, constituted an interference with interstate commerce, and violated the Sherman Act, that opinion is the law of the case, and cannot again be re-examined.

12. It is also contended that while the constitution of the Union authorizes strikes, it does not authorize unlawful acts,

such as the destruction of property, and that strikes are not unlawful. The trial court did not hold that strikes
3433 were unlawful, but, on the contrary, held: "The right of the Union miners to strike cannot be questioned," but added, "as long as no violence was used."

There were only two exceptions taken to the charge of the court, These were:

1. "The defendants separately except to the instruction which submits to the jury the question that the United Mine Workers of America, in its entire membership, can be held responsible for the conduct of a local strike when violence is used without showing that the entire membership participated in the wrongful acts, and without full knowledge of the same ratified such wrongful conduct before the institution of this suit."

2. "And the defendants severally except to that part of the court's charge which submits to the jury the question that the controversy between the miners and the plaintiffs in question was under the control of the International associations and its officers, and that they were charged with the duty of preventing violence and with the responsibility of any violence that occurred or any wrongful acts that were committed."

The first exception was not, and could not well be insisted on. It is unnecessary that each and every member of an organization engaged in an unlawful conspiracy must participate in the wrongful acts committed by some of the conspirators. The acts of one, in carrying out the objects of the conspiracy, is the act of all the conspirators.

The second exception has no basis whatever to rest on, as nothing in the charge of the court was to that effect.

13. The next contention is that the court erred in refusing to give the special requests for instructions asked in behalf of the defendants.

Counsel in their brief include under one head a number of assignments, 150 to 176 inclusive. They are instructions which requested directed verdicts in favor of each of the de-
fendants. We have hereinbefore held that the court
3434 did not err in refusing to direct a verdict for any of the defendants. It is, therefore, unnecessary to repeat what has been said.

14. Assignment No. 177, relates to the court's additional charge, when the jury returned for further instructions and

the charge given by the court when the jury was recalled, after having failed to agree on a verdict for two days.

As to the first additional charge, when the jury came into court for additional instructions, it is sufficient to state that no exception was taken to any part of that additional charge.

When the jury was recalled by the court on the second day, the court expressed its opinion as to the evidence, and said in effect, that in its opinion the plaintiffs had made out a case, entitling them to a verdict, but added, "Now, that is the judgment of this court and if it were my duty to decide it I would decide it here. Now, you are not bound by my opinion. I have a right to give you my judgment, however, you are the sole and exclusive judges of the facts and it is for you to determine these issues of fact independent of my judgment and this court believes you ought to determine it and under your oaths as jurors and agree upon a verdict."

The only exception taken by defendant to that charge was: "Mr. Grant: May I take an exception to that part of the charge with reference to the great conspiracy, and also that part which is to the effect that the organization put that in force?

"The Court: Yes, sir; in the opinion of the court you are entitled to your exception.

"Mr. Grant: I just desire to get an exception.

"The Court: The exception is allowed."

Counsel now not only ask that that part of the charge which was excepted to, be reviewed, but ask us to review the entire supplemental charge, because they say:

First. That it amounted "to a peremptory instruction to return a verdict against the defendants," and

3435 Second. That "the opinion regarding the facts of the case, which the court formed and expressed to the jury was an erroneous one."

As to the first contention, the Supreme Court, in Allis vs. United States, 155 U. S. 117, 122 said: "There is no intimation in the exception that the defendant at the time thought that the court was trying to coerce the jury, or suggested that its language might have such an influence upon them. Evidently the claim of coercion is an afterthought from subsequent study of the record. But it is settled that no such afterthought justifies a reviewing court in reversing a judgment." This

was in a criminal case, in which the defendant had been convicted of an infamous crime. In Robinson & Co. vs. Belt, 187 U. S. 41, 50, it was held: "While it is the duty of this court to review the action of subordinate courts, justice to those courts requires that their alleged errors should be called directly to their attention, and that their action should not be reversed upon questions which the astuteness of counsel in this court has evolved from the record." The same rule has been followed by this court in many cases. Lesser Cotton Co. vs. St. L. I. M. & S. Ry., 114 Fed. 133, 52 C. C. A. 95; Beiseker vs. Moore, 174 Fed. 368, 373, 98 C. C. A. 272; Maynard vs. Reynolds, 251 Fed. 784, 786, ... C. C. A. .....

But even if there had been an exception sufficient to present that issue in this court, the charge did not pass beyond the limits of the rule of the national courts relative to the statement to the jury of the court's opinion upon the deductions from the evidence relative to the facts in issue. In Vicksburg Meridian R. R. vs. Putnam, 118 U. S. 545, 553, that rule is thus stated: "In the courts of the United States, as in those of England, from which our practice is derived, the judge in submitting the case to the jury, may at his discretion whenever he thinks it necessary to assist them in arriving at a just verdict, comment upon the evidence and call their attention to the parts of it which he thinks important, and express his opinion upon the facts; and the expression of such opinion, when the no rule of law is incorrectly stated, and all matters of fact are ultimately submitted to the determination of the jury, cannot be reviewed on writ of error." Other cases to the same effect are, United States vs. Reading R. R.,
3436 123 U. S. 113, 114; Doyle vs. Union Pacific Ry., 147 U. S. 413, 430; Simmons vs. United States, 142 U. S. 148, 155; Capital Traction Co. vs. Hof, 174 U. S. 1; Freese vs. Kemplay, 118 Fed. 428, 430, 55 C. C. A. 258 Smith vs. St. Louis, I. M. & S. R. R., 214 Fed. 737, 742, 131 C. C. A. 43; Griggs vs. Nadeau, 250 Fed. 781, ... C. C. A. ..... The court in its general charge said: "In trials of this character like all civil actions, the exclusive province of the jury is to pass upon the facts and determine the issues of fact that are presented by the pleadings." In the supplemental charge of which the defendants now complain, the court told the jury: "Now, you are not bound by my opinion. I have a right to give you my judgment; however, you are the sole and exclusive judges of the facts, and it is for you to determine these issues of fact independent of my judgment." In our opinion this charge clearly and forcibly submitted every material fact

which had arisen during the trial, and neither peremptorily or otherwise coerced or directed a verdict in favor of either party. Suslak vs. United States, 213 Fed. 913, 919, 130 C. C. A. 391.

Turning to the only question covered by the exceptions, to-wit: the opinion which the court expressed to the jury in the supplemental charge, with reference to the great conspiracy, and also that part which is to the effect that the organization put that in force, is also untenable. First, there was no error in the court's charge upon the subject, because he merely expressed his opinion on the evidence, the facts and the effect of the evidence, and he told the jury that his opinion was not binding upon them, so it necessarily follows, that even if it was a mistaken opinion, it was not errer under the rule of practice in the national courts, to express his opinion of the evidence. As stated hereinbefore, there is a vast volume of substantial evidence tending to sustain his views.

13. Assignments 178 and 179 are to the effect that the court erred in accepting the verdict in the form returned by the jury, to-wit: "We, the jury, find the issues in favor of the plaintiffs and against the defendants, and assess plaintiffs' actual damages at $200,000.00," and not requiring the jury to find the separate damages sustained by the several
3437 plaintiffs. The exception taken to the verdict was: "Mr. Grant: I would like to except to the form of the verdict, for the reason that, as we undertand it, the verdict of the jury should apportion the damages." The exception does not specify whether counsel wanted the damages apportioned among the plaintiffs or the defendants. If it was intended to have the apportionment between the defendants, it was clearly without merit. Washington Gas Light Co. vs. Lansden, 172 U. S. 534, 552, where it was held that, "Those of the wrongdoers who are sued together and found guilty in an action of tort are liable for the whole injury to plaintiff, without examining the question of the different degrees of culpability. And if but one is sued, he is liable for all the damages inflicted by the most culpable." If it was intended to have the apportionment of the damages awarded to the plaintiffs, the request should have been made to that effect, in order that the court may have its attention called thereto. But assuming that the exception was intended to have the apportionment of the damages to each of the corporations represented by the receivers, without requesting it in plain language, the exception cannot be sustained. There is no complaint that the verdict is excessive, therefore, it may

well be asked, how are the defendants prejudiced? As stated in Kansas City Southern Ry. vs. Leslie, 112 Ark. 305, 332; "Appellant, at the time the verdict was rendered, made no objection to its form. He did not ask that the jury be required to return separate amounts for pain and suffering, and for loss of contributions. The widow and child, under the law, were entitled to the entire amount. They were the only persons having a pecuniary interest in the amount of damages recovered, and it could not prejudice appellant because these damages were returned in a lump sum. Appellant will be protected in the payment of the judgment as rendered, since all of the parties who had an interest in the same are represented in the suit." This was approved by the Supreme Court, 238 U. S. l. c. 604. It may be that the rule would have been different if there had been separate actions by each of the corporations, claiming different amounts, and these actions had been consolidated. But there was only one action for one gross sum.

3438 14. Assignments 183 and 184 attack the action of the court in adding to the damages assessed by the jury, interest from the date the property was destroyed to the day of judgment and trebling that interest.

The motion of plaintiffs for interest was filed four days after the verdict had been returned and judgment entered thereon, and the order of the court correcting the judgment, which had been entered on the verdict of the jury, was made eleven months after the entry of the judgment. This, in our opinion, was error.

The allowance of interest in actions of tort is discretionary with the jury. In Eddy vs. La Fayette, 49 Fed. 807, I. C. C. A. 441, this court held that an instruction on the measure of damages, in an action for a tort by a Railway, in negligently setting fire to property to award interest, was error. The Supreme Court in affirming the judgment, 163 U. S. 456, 467, said; "Undoubtedly the rule, in cases of tort, is to leave the question of interest as damages to the discretion of the jury." Other cases in point are Lincoln vs. Claflin, 74 U. S. 132, 139; The Scotland, 118 U. S. 507; De La Rama vs. De La Rama, 241 U. S. 154, 159; District of Columbia vs. Robinson, 180 U. S. 92, 107; Arnold vs. Horrigan, 238 Fed. 39, 47, 151 C. C. A. 115. And this is the settled rule established by the Supreme Court of the State of Arkansas, where the tort was committed and the action tried. Watkins vs. Wassell, 20 Ark. 420; Crow vs. State, 23 Ark. 684, 694. In no event can the court add interest

to the verdict of the jury, when the jury had failed to allow interest, whether the action is ex contractu or ex delicto. Hallum vs. Dickinson, 47 Ark. 120, 126; Ark. & La. Ry. vs. Stroude, 82 Ark. 117, 127; McDonough vs. Williams, 86 Ark. 600, 608; Minot vs. Boston, 201 Mass. 10; Dyer vs. Combs, 65 Mo. App. 148. Nor is there anything in the Sherman Act which changes this rule. Thomsen vs. Cayser, 243 U. S. 66, relied on by defendants is not in point. In that case the jury, by its verdict, allowed interest, but failed to compute it. The verdict of the jury was "for the plaintiff in the sum of fifty-six hundred dollars, with interest." Interest having been awarded by the jury, the computation was merely ministerial. Cooper vs. Hill, 94 Fed. 582, 35 C. C. A. 402, was an action in equity, and the chancellor in his discretion allowed interest, as the jury may have done in this case, but refused to do so. None of
3439 the authorities cited by counsel sustains the contention that in an action for a tort the court may allow interest, when the jury had failed to do so. In equity and admiralty, the court in assessing the damages, acts as a jury, and therefore such cases are not in point.

As the amount allowed for interest is fixed, this error may be corrected without remanding the case for a new trial, by permitting the defendants in error to enter a remittitur for that sum. As this is the only error in this cause, defendants in error will be permitted to file a remittitur in the court below, within forty days from the filing of this opinion, for the interest allowed, and upon filing a certified copy of such remittitur with the clerk of this court, the same will be affirmed, otherwise, it will be reversed with instructions to grant a new trial.

Filed April 28, 1919.

Hook, Circuit Judge, dissenting.

After the jury had deliberated without result for about two days the trial court of its own motion recalled and charged them in a way that soon produced the verdict. Parts of this charge will be presently set forth. Having in mind the constitutional relations between court and jury and their practical relations as well, I cannot escape the conviction that the language employed by the court was so forcible that it virtually coerced the verdict. That should never occur where the state of the evidence requires its submission to a jury, however unequal in weight the court may regard it. The power of a court to comment upon the evidence and to assist a jury in performing their duties is one of the most valuable features

of the practice in the courts of the United States, and its exercise almost always makes for right and justice. But however strongly a court may feel in a case that should properly go to the jury, the power to comment and assist them is not a power to direct a verdict, and the distinction should always be observed. Words often take compelling force from the
authority of him who utters them; and when he may,
3440 but should not, command he must be most careful with
advice. The Supreme Court has said: "It is obvious that under any system of jury trials the influence of the trial judge on the jury is necessarily and properly of great weight, and that his lightest word or intimation is received with deference, and may prove controlling". (Starr vs. United States, 153 U. S. 614, 626.) And upon the same subject this court said: "But his comments upon the facts should be judicial and dispassionate, and so carefully guarded that the jurors, who are the triers of them, may be left free to exercise their independent judgment." (Rudd vs. United States, 97 C. C. A. 462, 173 Fed. 912.) It should be borne in mind that the trial court did not regard the case at bar as one for a directed verdict against the defendants, nor do my brothers hold differently in the foregoing opinion. It was a case for the jury, and if in effect the verdict was directed by the court, error was necessarily committed.

In the foregoing opinion the exceptions to the charge are held insufficient to raise this question. The exceptions might have been more specific but I think the intention of counsel was sufficiently evident and that the trial court understood it. But whether this is so or not is not now decisive of our duty. A recent amendment, of section 269 of the Judicial Code approved February 26, 1919, provides: "On the hearing of any appeal, certiorari, writ of error or motion for a new trial, in any case, civil or criminal, the court shall give judgment after an examination of the entire record before the court, without regard to technical errors, defects, or exceptions which do not affect the substantial rights of the parties." The matter under discussion was of vital importance and is well within the above provision. It was not an inadvertence or casual ruling in the progress of the trial to which specific objection or exception was necessary to inform the court and give it opportunity for correction, but it was a deliberate action going to the very root of the judgment now under review. In view of the above I will now set forth parts of the charge, the italics being mine:

"I want to say to you that the court has no thought at all of discharging you. You were sworn upon your oaths to do your duty as jurors. In the opinion of the court there is no reason on earth why reasonable men with a due regard
3441 for right, and each having due respect and consideration for the other's opinion, should not arrive at a conclusion in this case. What would be a fortune to either of you, or (to me), has already been spent and a failure to render justice in this and other (cases) is what brings the courts into contempt. * * * *

" * * * * and you are advised that this court is of the opinion that the facts in this case justify you in the conclusion overwhelmingly that it was the policy and, therefore, the agreement for years of this national organization to prevent mining of non-union coal for the unlawful purposes named in this complaint that it might not come into competition with union-mined coal; that there is no question in this court's mind but that that strike was ordered down there for that purpose to prevent the mining of non-union coal in these plaintiffs' mines; that the strike was called by those who were the instrumentality of the greater organization, the general organization, the defendants, and their act was its act, and that they put into motion the force that destroyed this property * * * *. Why, this court has not a thought that there would ever have been any trouble there if it had not been for the prevention of the mining of non-union coal. Now, that is the judgent of this court and if it were my duty to decide it, I would decide it here. * * * *

"If there is any question about the law on the responsibility for this, responsibility of the greater organization, that is for the higher court to say, but you cannot reach it until you have done your duty— you are the stumbling block in the way and this whole time is wasted. Now, after I have said what I have, I am going to say that I have no thought of discharging you, you must return a verdict in this case."

Of course, the court said it was for the jury to determine the facts and that they were not bound by its opinion, etc.; but are not such expressions wholly futile in the compelling force of the above? There are occasions in which the statement of a principle of law is but an academic formula. Can it reasonably be said after such a charge that the jury felt free to exercise their own independent judgment? The question whether the well established province of a jury is
3442 invaded is to be judged by the natural effect of the charge upon the minds of the jurors. How did they

feel about it? Did they feel free to exercise their functions independently or were they constrained by the intrusion of the personality and power of the judge, and the fear of his displeasure, ridicule or contempt? In this case they were reminded of their oaths; they were told that they would not be discharged but had to return a verdict; that there was no reason on earth why they should not agree; that failure to render justice would bring the court into contempt; that there was no question in the mind of the court about the evidence; that it was overwhelmingly one way, meaning against the defendants; and that they were a stumbling block in the way of the final determination of the legal responsibility for the acts charged. It is regrettable that this incident occurred, for up until that time the case was most admirably and carefully tried.

In my opinion the judgment should be reversed.

Filed April 28, 1919.

3443 (Nisi Judgment.)

United States Circuit Court of Appeals, Eighth Circuit.

December Term, 1918.

Monday, April 28, 1919.

United Mine Workers of America, et al., Plaintiffs in Error,
No. 5154. vs.
Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard, Receivers, and C. H. Finley and H. P. Hilliard, Receivers.

In Error to the District Court of the United States for the Western District of Arkansas.

This cause come on to be heard on the transcript of the record from the District Court of the United States for the Western District of Arkansas, and was argued by counsel.

On consideration whereof, it is now here ordered and adjudged by this Court, that if within forty days from and after this date the defendants in error, plaintiffs in the Court

below, shall file and enter upon the record in the said District Court, where the judgment is entered, a remittitur in the sum of One Hundred Twenty Thousand Six Hundred and no/100 Dollars ($120,600.00), being the amount of interest allowed by said District Court, and shall within fifteen days after the filing of such remittitur file with the Clerk of the Court a certified copy thereof, the judgment of said District Court as thus modified shall be affirmed with costs.

3444 If such remittitur is not so filed and entered and a certified copy thereof filed in this Court, the judgment below shall be reversed with costs and the cause remanded with directions to grant a new trial.

April 28, 1919.

(Certified copy of Remittitur of Defendants in Error filed in District Court.)

In the United States District Court, Western District of Arkansas, Fort Smith Division.

Coronado Coal Company, et al., Plaintiffs,
No. 553. vs.
United Mine Workers of America, et al., Defendants.

Come the plaintiffs herein and state that on the 22nd day of November, 1917, a verdict was returned in this cause in the sum of $200,000.00 in favor of the plaintiffs.

Thereupon the court directed the entry of a judgment in the sum of $600,000.00 with costs. Thereafter on the 26th day of November, 1917, the plaintiffs herein filed a motion in this court to increase said judgment, with interest on the $200,000.00 from July 17, 1914, to date of the verdict, which sum trebled, amounted to the sum of $120,600.00. The said motion was filed in this court as above stated, and came on for a hearing at Sioux Falls before Judge Elliott who tried this cause on the 7th day of February, 1918. Judge Elliott
3445 being the judge who tried this cause, granted the motion to increase the judgment herein in the sum of $120,600. Thereupon, on the 18th day of February, 1918, judgment was entered herein, increasing the original judgment in the sum named, and further adding to the judgment the sum of $25,000. as reasonable attorneys' fee for plaintiffs. The defendants herein duly appealed this cause to the Circuit Court of Appeals of the Eighth Circuit and that court in this cause on the 30th day of April, 1919 entered an order, re-

quiring the plaintiffs herein to enter a remittitur in this cause as to the sum of $120,600.00 and said Court of Appeals further ordered that if said remittitur should not be entered the cause should be reversed, giving the plaintiffs herein the right to enter said remittitur within said forty days.

And now come the plaintiffs within the time named and enter their remittitur herein of said sum of $120,600.00 as required by the order of the Circuit Court of Appeals, and ask the court to accept said remittitur and to correct the judgment in accordance with said remittitur and to direct the clerk to send a certified copy of this remittitur and the order accepting the same, to the clerk of the Circuit Court of appeals, within the time prescribed by the order of the Circuit Court of Appeals.

CLYDE H. FINLEY,
Receiver for Coronado Coal Company, et al.,
By Henry S. Drinker, Jr.,
James B. McDonough,
His Attorneys.

Filed May 29, 1919, Wm. S. Wellshear, Clerk.

United States of America,
Western District of Arkansas—ss.

3446 I, Wm. S. Wellshear, Clerk of the District Court of the United States for the Western District of Arkansas, certify the foregoing to be a true and correct copy of remittitur, filed May 29, 1919, in case No. 553 Law, Coronado Coal Company, et al., vs. United Mine Workers of America, et al., as the same appears on file in my said office in the Fort Smith Division of said District.

In Testimony Whereof, I hereunto set my hand and affix the seal of said Court at office in the City of Fort Smith, Arkansas, this 29 day of May, 1919.

(Seal)

WM. S. WELLSHEAR,
Clerk.

(Endorsed): Filed in U. S. Circuit Court of Appeals, Jun. 3, 1919.

(Final Judgment.)

United States Circuit Court of Appeals, Eighth Circuit.

May Term, 1919.

Monday, June 9, 1919.

United Mine Workers of America, et al., Plaintiffs in Error,
No. 5154. vs.
Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard, Receivers, and C. H. Finley and H. P. Hilliard, Receivers.

3447 In Error to the District Court of the United States for the Western District of Arkansas.

This cause came on this day for final disposition by the Court and the plaintiffs in the Court below, the defendants in error in this Court, having filed in the District Court of the United States for the Western District of Arkansas a remittitur in the sum of One Hundred Twenty Thousand, Six Hundred and no/100 ($120,600.00) Dollars, in pursuance of the order and judgment of this Court entered on April 28, 1919, as appears from a certified copy of said remittitur filed in the office of the Clerk of this Court.

It is on consideration thereof now here ordered and adjudged by this Court, that the judgment of the said District Court in this cause, as so reduced by the said demittitur, be, and the same is hereby, affirmed with costs; and that the Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard, Receivers, and C. H. Finley and H. P. Hilliard, Receivers, have and recover against the United Mine Workers of America, et al., the sum of twenty dollars for their costs herein and have execution therefor.

June 9, 1919.

3448 (Petition of Defendants in Error for allowance of Counsel fees.)

The petition of Clyde H. Finley as Receiver of the Coronado Coal Company, et al., in the above entitled case, respectfully represents:

1. That your Petitioner, together with H. P. Hilliard, (the said H. P. Hilliard having on ..... been discharged as Receiver of said Companies by the District Court for the Western District of Arkansas), were parties plaintiffs in a certain suit brought in the Western District of Arkansas against the United Mine Workers of America, et al., to recover damages suffered by reason of the actions of the United Mine Workers of America, et al., in restraint of interstate commerce in violation of the Act of Congress of July 2, 1890, known as the Sherman Anti-Trust Act, and as such plaintiffs, recovered judgment against the United Mine Workers of America, et al., in the sum of $600,000, to which said judgment the District Court, by order entered February 27, 1918, added the sum of $120,600 as interest, and by order dated February 27, 1918, taxed as part of the costs of the said case, $25,000 as a reasonable attorneys' fee.

Thereafter the defendants therein took a writ or error to this Court and argument in the same was held before your Honorable Court on December 10, 1918, and pursuant to decision of this Court, remittitur having been entered by the original plaintiff, your Petitioner herein and defendant in error in said appeal, in the amount of $120,600, judgment of the said District Court of the Western District of Arkansas was affirmed by this Court on June 9, 1919.

2. Section 7 of the Sherman Anti-Trust Act of July 2, 1890, under which said proceedings were begun and conducted, provides that plaintiff in a suit to recover treble damages under said Act shall recover as part of the costs a reasonable attorneys' fee.

3449 3. Judgment of the District Court for the Western District of Arkansas having been affirmed by this Court, your Petitioner therefore prays your Honorable Court to make an order awarding to your Petitioner and taxing as part of the costs in the said appeal in the above entitled case a reasonable sum to be fixed by your Honorable Court in view of the size of the record, the number of questions involved in said appeal and the time, labor, experience and knowledge of the law necessary for defending the said judgment on appeal,

and for preparing and presenting the cause of the defendants in error in the said appeal to this Court.

And your Petitioner will ever pray, etc.

HENRY S. DRINKER, JR.,
JAMES B. McDONOUGH,
Attorneys for Petitioner.

* * * * * * * * *

(Endorsed): Filed in U. S. Circuit Court of Appeals, Jul. 3, 1919.

(Protest against allowance of Counsel Fees to Counsel for Defendants in Error.)

Come the Plaintiffs in Error, under protest, and here severally protest against the allowance of additional counsel fees to the attorney of the defendants in error, as grounds of their several objections thereto say:

1. That after the close of the trial of the case in the Court below, upon motion of defendants in error, the trial
3450 court allowed the sum of twenty-five thousand dollars to the defendants in error as counsel fees in said cause; that said court found such sum to be reasonable and just and taxes it as a part of the costs of the case; that said sum was agreeable to defendants in error and their counsel because they did not except to the finding of the court, or appeal from its decision fixing said fees, or failure to allow more fees.

2. That, under section 7 of the Sherman Act, the trial Court, and not the Court of Appeals, is the proper tribunal to fix and tax attorneys fees in causes arising under said Act.

3. That counsel for defendants in error, and the defendants in error, erroneously procured from the trial court a judgment and order allowing $120,600 interest on the judgment rendered against the plaintiffs in error, which cause necessarily had to be appealed to the Circuit Court of Appeals for review, and upon the appeal this court held said allowance to be erroneous and the defendants in error and their counsel have agreed that said allowance is erroneous and have entered a remittitur for the same; that upon this proposition the judgment of this court is in favor of the plaintiffs in error, and the defendant in error is not entitled to have additional fees, or any fees whatever taxed as costs against the plaintiffs in error.

Wherefore, the plaintiffs in error severally pray that the motion to tax counsel fees be dismissed, and that no allowance be made.

HENRY WARRUM,
COVINGTON & GRANT,
Attorneys for the Plaintiffs in Error.

(Endorsed): Filed in U. S. Circuit Court of Appeals, Jul. 14, 1919.

3451 (Reply to Protest by Plaintiffs in Error against Allowance of Counsel Fees to Counsel for Defendants in Error.)

Come the defendants in error and in reply to protest of plaintiffs against the allowance of additional counsel fees, say:

1. The sum of $25,000 allowed by the Trial Court as attorneys' fee, by order made February 27, 1918, was [sold] on account of services of attorneys in the trial of said cause in the Trial Court and not on account of any attorneys' services on the writ of error to this Court, petition for which was not filed until March 18, 1918.

2. That while it may be that under Section 7 of the Sherman Act, the Trial Court has power to tax an additional attorneys' fee for services in this Court (see Lehigh Valley Railroad Company vs. Mills 226 Fed. 812) this Court has power to tax such a fee for services in this Court and to tax the same as part of the costs of this Court (see Louisville & Nashville Railroad Company vs. Dickerson 191 Fed. 705).

3. That while it is true that in fixing the amount of the attorneys' fee for services in this Court, this Court may properly exclude from consideration the services in connection with the allowance of interest, forming the subject matter of the 183rd and 184th assignments of error, defendants in error are nevertheless entitled to a reasonable attorneys' fee for the services of their attorneys in connection with the remaining 18th unrelated assignments of error filed by plaintiffs in error in this Court, none of which were sustained by this Court.

HENRY S. DRINKER, JR.,
JAMES B. McDONOUGH,
For Defendants in Error.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Aug. 25, 1919.

3452 (Order denying Petition of Defendants in Error for allowance of Counsel Fees.)

September Term, 1919.

Saturday, November 15, 1919.

This cause came on this day to be heard upon the petition for allowance of counsel fees, filed by Counsel for the Defendant in Error, C. H. Finley, as Receiver of the Coronado Coal Company, et al.

On consideration whereof, it is now here ordered by this Court, that said petition for allowance of counsel fees in this cause, be, and the same is hereby, denied.

November 15, 1919.

3453 (Petition of Plaintiffs in Error for a Rehearing.)

Come now the above named plaintiffs in error and severally petition the Court to grant them a rehearing in above entitled cause, and as grounds of this petition r[illegible] fully show:

1. The Court erred in holding that unincor[illegible]d labor unions may be sued as entities at law under the [illegible]ions of the Sherman Act.

2. The Court erred in refusing to hold that by the provisions of the Clayton Act the defendants in error were without right to maintain their action against the labor unions, plaintiffs in error.

3. The Court erred seperately and severally and in each instance in refusing to sustain Assignments of Error 1 to 9 inclusive.

4. The Court erred in holding that there was not a misjoinder of plaintiffs and of their causes of action.

5. The Court erred in deciding that the complaint alleges that the "nine corporations for which the plaintiffs as
3454 receivers sued, were under the control of the same persons who owned all of the shares of stock of all nine corporations and all were operated as one, eight of them being subsidiaries of the Bache-Denman Coal Company; that by reason of these facts, the destruction by the defendants, of the property of the corporations, they sustaned the losses jointly."

6. The Court erred in deciding that the plaintiffs (defendants in error) were entitled to join or consolidate their causes of action in the Federal Court under the Consolidation Act of Arkansas, May 11, 1905.

7. The Court erred in deciding that the right of plaintiffs to consolidate their several causes of action under the Arkansas practice created in them a joint cause of action. The Court erred in deciding that the plaintiffs (defendants in error) had a joint cause of action.

8. The Court erred in deciding that the plaintiffs (defendants in error), were entitled to join or consolidate their causes of action in the Federal Court under the Consolidation Act of Arkansas, of May 11, 1905.

9. The Court erred in deciding that the decision of the Kansas City Southern Railway Company vs. Leslie, 238 U. S. 599-603, was applicable in determining the question of joinder of the plaintiffs or of their causes of action.

10. The Court erred in holding that the decision of Mutual Life Insurance Company vs. Hillman, 145 U. S. 285, and the construction therein of the Federal Consolidation Act, was not controlling upon the practice governing the joinder of parties and their causes of action in the present case.

11. The Court erred separately and severally and in each instance in refusing to sustain Assignments of Error 7 to 11, inclusive.

12. The Court erred in holding that as the orders to produce documents were directed against the officials of the United Mine Workers of America they had no right to claim the benefits of the Fourth and Fifth Amendments to the Federal Constitution, the union not being incorporated and the officials not being amenable to the rules relating to corporate officials on the question of production of corporate papers, in so far as their constitutional guarantees are involved.

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13. The Court erred separately and severally and in each instance on refusing to sustain Assignments of Error 14 and 17, inclusive.

14. The Court erred in holding that the Joint Conference Reports were properly authenticated, and competent and relevant evidence.

15. The Court erred separately and severally and in each instance in refusing to sustain Assignments of Error 59 to 96 inclusive.

16. The Court erred in holding that the articles introduced in evidence from the Un[illegible] Mine Workers Journal, and each of them, were competent [illegible]idence.

17. The Court erred in treating as editorials the Contributed Articles and News Items read in evidence from the United Mine Workers Journal, and in holding them competent evidence.

18. The Court erred in holding that the labor unions, plaintiffs in error, must be treated as corporations for the purpose of determining their liability for the commission of a tort or ratification thereof.

19. The Court erred separately and severally, and in each instance, in refusing to sustain Assignments of Error 21 to 45 inclusive.

20. The Court erred in failing to pass upon Assignments of Error 143, 144, 145, 146 and each of them, and in not deciding under said Assignments and the judgments and sentences in certain criminal prosecutions against the defendants, James Slankard, Sandy Robinson, Peter R. Stewart, John Manick and Frank Grippando, and each of them, were inadmissible and incompetent testimony in this case.

21. The Court erred separately and severally and in each instance in refusing to sustain Assignments of Error 132 and 133.

3456 22. The Court erred separately and severally and in each instance in refusing to sustain Assignments of Error 99 to 109 inclusive.

23. The Court erred in failing to pass upon Assignments of Error 120 to 127 inclusive, and each of them, and in not holding under said assignments that the testimony of witness Denman as to the profits which might have been made after the destruction of the leases, were improper and incompetent evidence.

24. The Court erred in refusing to hold that a verdict should have been directed for the United Mine Workers of America.

25. The Court erred in refusing to sustain Assignment of Error 149, and in holding that the Court properly instructed

the jury that the United Mine Workers of America could be held responsible without showing that the entire membership participated in the wrongful acts, or with full knowledge of the same ratified such wrongful conduct before the institution of this suit.

26. The Court erred separately and severally and in each instance in refusing to sustain Assignments of Error 150 to 176 inclusive.

27. The Court erred in not holding that the United Mine Workers of America, and District No. 21, were entitled to their several instructions that the Bache-Denman Coal Company failed to establish a cause of action against each of them.

28. The Court erred in not holding that the United Mine Workers of America, and District No. 21, were each entitled to their separate requested instructions that the Hartford Coal Company had failed to establish a cause of action.

29. The Court erred in not holding that the United Mine Workers of America, and District No. 21, were each entitled to their separate requested instructions that the Mammoth Vein Royalty Company had failed to establish a cause of action.

30. The Court erred in not holding that the United
3457 Mine Workers of America, and District No. 21, were each entitled to their separate requested instructions that the Sebastian County Coal Company had failed to establish a cause of action.

31. The Court erred in refusing to sustain Assignments of Error 170 to 176 inclusive.

32. The Court erred in refusing to sustain Assignments of Error 177.

33. The Court erred in deciding that the exceptions to the court's supplemental instruction to the jury after their two days' deliberations was not sufficient to present its coercive and peremptory character.

34. The Court erred in holding that the said supplemental instructions given the jury was not prejudicial to the rights of the plaintiffs in error.

35. The Court erred in not holding that the said supplemental instruction wherein the jury was told to effect to return a verdict for the plaintiffs as a matter of its duty in order that the higher courts might be thus enabled to determine the legal question of the responsibility of the labor

unions sued, was error and prejudicial to the rights of the plaintiffs in error.

36. The Court erred separately and severally and in each instance in refusing to sustain Assignments of Error 178 and 179.

37. The Court erred in holding that the opinion in Kansas City Southern Railway Co. vs. Leslie, 112 Ark. 332, arising under the Federal Employers' Liability Act, is determinative of the rights of the plaintiffs below to a joint verdict under the Federal Anti-Trust statutes.

38. The Court erred in holding, in connection with the question of apportioning the damages awarded by the jury, that the plaintiffs were prosecuting a joint cause of action.

39. The Court erred in holding, in connection with the apportioning of the verdict, that these were not separate
3458 actions by each of the corporations, defendants in error, but a joint cause of action.

40. The Court erred in refusing to reverse the case.

Wherefore, the plaintiffs in error above named respectfully pray that a rehearing be granted and that the cause be reversed.

HENRY WARRUM,
WEBB COVINGTON,
G. L. GRANT,
Attorneys for Plaintiffs in Error.

We hereby certify that we have read over the foregoing petition for a rehearing, and the brief in support thereof, and that the same have not been filed for the purpose of delay, but only because we believe that a rehearing ought to be granted for the reasons stated in said petition and in the brief filed in support thereof.

HENRY WARRUM,
WEBB COVINGTON,
G. L. GRANT,
Attorneys for Plaintiffs in Error.

(Endorsed): Filed in U. S. Circuit Court of Appeals, Jul. 30, 1919.

3459 (Order denying Petition of Plaintiffs in Error for a Rehearing.)

September Term, 1919.

Saturday, November 15, 1919.

This cause came on this day to be heard upon the petition for a rehearing, filed by Counsel for Plaintiffs in Error.

On consideration whereof, it is now here ordered by this Court, that said petition for a rehearing of this cause, be, and the same is hereby, denied.

November 15, 1919.

(Motion for stay of Mandate.)

Come the Plaintiffs in Error and move the Court for a stay of the mandate, and for cause thereof state:

That the petition for a rehearing, filed by the plaintiffs in error in the above stlyed cause, has been by this Court overruled; that the plaintiffs in error desire to carry their case to the Spreme Court of the United States for review; that they are advised by their attorneys that the proper way to lay said cause before the Supreme Court is by writ of certiorari; that the record in this cause, in this Court and from the lower court, is very large, covering several thousand pages; that it will require the Clerk of this Court several days to prepare the record for the use of the plaintiffs in error in their appeal to the Supreme Court, but that out of precaution, at the time the record was printed in this Court, extra
3460 copies were made for use of the Clerk of this Court in event it was deemed wise to carry said cause to the Supreme Court, and by reason of this fact the Clerk will be able to furnish the record in a much shorter time than if he were forced to print the record anew; that it will require several days for him to prepare and have bound the record that the plaintiffs in error will desire to lay before said Supreme Court; that it will require a considerable time, after the record is printed and furnished to plaintiffs in error to prepare the petition for writ of certiorari and to prepare and have printed and filed the briefs on said petition in the Supreme Court; that the plaintiffs in error will work as expeditiously as possible, but that owing to the magnitude of the case and the issues involved it will require more time than is ordinarily the case where applications are made for writ of certiorari.

Wherefore, the plaintiffs in error pray this Court to allow them a reasonable time to apply to said Supreme Court for the writ aforesaid, and to stay the mandate during said period of time.

HENRY WARRUM,
COVINGTON & GRANT,
Attorneys for Plaintiffs in Error.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Nov. 17, 1919.

(*Order Staying Mandate.*)

September Term, 1919.

Monday, November 17, 1919.

This cause came on to be heard on the motion of plaintiffs in error for a stay of the mandate of this Court and upon consideration thereof, it is now here ordered that the mandate of this Court herein be, and the same is hereby, stayed for a period of sixty days from and after this date to enable plaintiffs in error to apply to the Supreme Court of the United States for a writ of certiorari, and if such application is filed in and submitted to the Supreme Court within said time the issuance of the mandate will then be withheld until said application shall have been disposed of.

November 17, 1919.

* * * * * * *

(*Motion for Further Stay of Mandate.*)

Come the Plaintiffs in Error and move the Court for an additional stay of the mandate in the above entitled cause, and for reason state: that on November 17, 1919, this Court entered its order granting to the Plaintiffs in Error a stay of the mandate for a period of sixty days to enable them to apply to the Supreme Court for a writ of certiorari; that since the granting of said stay the Petitioners' counsel have been unexpectedly detained in the hearing and proceedings in the District Court of the United States for the District of Indiana in matters pending in that Court in which the Plaintiffs in Error herein were involved and that such proceedings and hearings extended over a period of several weeks; that the attorneys for these Plaintiffs in Error have devoted much time to the preparation of their petition for a writ of certiorari and to the preparation of the briefs to be submitted in connection therewith; that they have been unable to present their petition to the Supreme Court, having received the petition and briefs from the printer on the 11th day of January, 1920; that the time for presenting the same to the Supreme Court will expire on the 16th day of January, 1920, and that they will not have time to submit the same within the time allowed by this Honorable Court.

Therefore, these Plaintiffs in Error respectfully pray that this Honorable Court grant them a reasonable extension of time for the presentation of said petition for writ of certiorari to the Supreme Court and with-old the mandate during said period.

WEBB COVINGTON,
G. L. GRANT,
HENRY WARRUM,
Counsel for Plaintiffs in Error.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 12, 1920.

(*Order Staying Mandate Until February* 15, 1920.)

December Term, 1919.

Monday, January 12, 1920.

On motion of counsel for plaintiffs in error for a further stay of the mandate of this Court pending the presentation to the Supreme Court of the United States of an application for a writ of certiorari, It is now here ordered by this Court that the issuance of the mandate in this cause to the said District Court be, and the same is hereby further stayed until February 15, 1920, pending said application to the Supreme Court for writ of certiorari.

January 12, 1920.

(*Petition for Writ of Error from Supreme Court U. S. and Allowance Thereof.*)

Come now United Mine Workers of America, District No. 21 of the United Mine Workers of America, John P. White, P. R. Stewart, Fred Holt, John P. White as President of the United Mine Workers of America, P. R. Stewart as President of the United Mine Workers of America, District No. 21, William McLaughlin, William McLaughlin, as President of the United Mine Workers of America District 21, Tom King, Tom King as Board Member of United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham, Edward Cunningham as President of District 21 United Mine Workers of America, Frank J. Hayes, Frank J. Hayes as Vice-President of United Mine Workers of America, William Green, William Green as Secretary-Treasurer of the United Mine Workers of America, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendry, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, and Local Unions numbered 340, 560, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841, 2880, 374 and 586, of the United Mine Workers of America, A. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout,

Joe Assola, Joe Kervillas, Wm. Redden, Charles Blackburn, Joe Lanier, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claude Litchford, John Litchford, Otto Alimen, Cary Crumpton, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Burkett, Willis Congo, Leslie Congo, Bud Congo, Charles McKown, J. W. Howard, Bud Williams, Wm. Price, Peter McMullen, Jr., John Murry, John T. W. Davis, Brock Smith, Ed. Kehee, who were plaintiffs in error in the Circuit Court of Appeals for the Eighth Circuit, in the above entitled cause, *cause,* and who were the defendants in the cause in the District Court of the United States for the Western District of Arkansas, Fort Smith Division, in which the Coronado Coal Company, et al., were plaintiffs; and the said plaintiffs in error separately and severally deem themselves aggrieved by the various errors occurring at the trial of the cause in the District Court aforesaid, and severally and separately now deem themselves aggrieved by the various errors occurring in the hearing proceedings, orders and judgments of the said United States Circuit Court of Appeals for the Eighth Circuit, which errors will more fully appear in the assignment of errors filed herewith and made a part of this petition.

Wherefore, the plaintiffs in error severally pray that a writ of error may be issued in their behalf out of the Supreme Court of the United States for the correction of errors aforesaid complained of, and that a transcript of the record, proceedings and papers in this cause, duly authenticated, may be sent to the Supreme Court of the United States aforesaid; that upon hearing in said Supreme Court of the United States the cause be reversed and the orders, rulings and judgments of said Circuit Court of Appeals be reversed, and that the plaintiffs in error have such other and further relief as may be proper in the premises.

HENRY WARRUM,
WEBB COVINGTON,
G. L. GRANT,
Attorneys for the Plaintiffs in Error.

Writ of Error allowed as prayed this 30th day of January, A. D. 1920.

WALTER H. SANBORN,
Senior U. S. Circuit Judge, Eighth Circuit.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 30, 1920.

(*Assignment of Errors on Writ of Error from Supreme Court U. S.*)

Come now United Mine Workers of America, District No. 21 of the United Mine Workers of America, John P. White, P. R. Stewart, Fred Holt, John P. White, as President of the United Mine Workers of America, P. R. Stewart as President of the United Mine Workers of America, District No. 21, William McLaughlin, William Mc-

Laughlin as President of the United Mine Workers of America District 21, Tom King, Tom King as Board Member of United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham, Edward Cunningham as President of District 21 United Mine Workers of America, Frank J. Hayes, Frank J. Hayes, as Vice-President of United Mine Workers of America, William Green, William Green as Secretary-Treasurer of the United Mine Workers of America, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendry, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, and Local Unions numbered 340, 560, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494 2766, 2769, 2770, 2772, 2841, 2880, 374 and 586, of the United Mine Workers of America, A. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneola, E. Trout, Joe Assola, Joe Kervillas, Wm. Rodden, Charles Blackburn, Joe Lanier, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claude Litchford, John Litchford, Otto Alimen, Carey Crumpton, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Burkett, Willis Congo, Leslie Congo, Bud Congo, Charles McKeown, J. W. Howard, J. Bud Williams, Wm. Price, Peter McMullen, Jr., John Murry, John T. W. Davis, Brock Smith, Ed. Kehee, the Plaintiffs in Error, and separately and severally file the following Assignment of Errors appearing upon the record in this cause, which Plaintiffs in Error separately and severally aver to have occurred in the proceedings, orders, decisions and judgments of the said United States Circuit Court of Appeals in the hearing of said cause on Writ of Error thereto and for which the judgment should be reversed.

1. The Circuit Court of Appeals for the Eighth Circuit erred in holding that the Plaintiffs in Error, unincorporated labor unions, were legal entities against which suit could be brought, process issued and judgment recovered in an action for damages under the Federal Anti-Trust Laws.

2. The court erred in refusing to hold that by the provisions of the Clayton Act the Defendants in Error were without right to maintain their actions against the labor unions, Plaintiffs in Error.

3. The Circuit Court of Appeals erred in holding that the labor union- Plaintiffs in Error must be treated as corporations for the purpose of determining their liability for the commission of a tort or ratification thereof.

4. The Circuit Court of Appeals for the Eighth Circuit erred in sustaining the action of the District Court in overruling the separate demurrer of the several Plaintiffs in Error to the third amended complaint.

5. The Circuit Court of Appeals for the Eighth Circuit erred in not reversing the ruling of the District Court in overruling the sepa-

rate motions of the several Defendants in Error to strike from the third amended complaint the name of each of the Plaintiffs and their causes of action, said motions being made on the ground that each of said Plaintiffs (Defendants in Error) have not a community of interest in the relief sought, and that therefore there is a misjoinder of parties plaintiff and of causes of action.

6. The Circuit Court of Appeals erred in sustaining the ruling of the District Court that there was a proper joinder of parties plaintiff and of their causes of action.

7. The Circuit Court of Appeals erred in holding that by consolidating their causes of action in the bringing of the suit the Defendants in Error have a joint cause of action.

8. The Circuit Court of Appeals erred in sustaining the orders of the District Court requiring the Plaintiffs in Error, labor unions and their officers, to produce certain books, writings and documents from their files for the use of the Defendants in Error at the trial, to prove the alleged criminal conspiracy.

9. The Circuit Court of Appeals erred in sustaining the ruling of the District Court ordering the United Mine Workers of America and John P. White as President and William Green as Secretary-Treasurer thereof, to produce for the use of the Plaintiffs at the trial of said cause the minutes of the National Executive Board of the United Mine Workers for 1914; correspondence between John P. White as President of said United Mine Workers on one side and P. R. Stewart, President of District No. 21, Fred Holt, Secretary of said District and James Mullen, a Board Member thereof, which took place between April 1, 1914 and January 1, 1915; expense accounts of James Mullen and K. C. Adams between April 1, 1914 and January 1, 1915; all contracts in effect March, April, May, June and July, 1914, between the United Mine Workers and coal operators of the United States or Canada; the proceedings of all conventions of the United Mine Workers from 1898 to and including 1916; printed volumes of the United Mine Workers' Journal beginning with 1892, to and including the year 1916; the printed volumes of the proceedings of the joint conventions of the United Mine Workers and coal operators down to and including proceedings of the conference in 1916.

10. The Circuit Court of Appeals erred in sustaining the District Court in requiring District No. 21 of United Mine Workers of America and its officers to produce for the use of the Plaintiffs at the trial of said cause the minutes of the convention for said District in the years 1914, 1915 and 1916; the reports of all officers of said District for said years; the returned checks executed and paid in the disbursement of funds of said District from April 1, 1914 to January 1, 1916.

11. The Circuit Court of Appeals erred in sustaining the ruling of the District Court in requiring the Plaintiffs in Error (labor unions)

Local Unions Nos. 506, 340, 1130, 1526, 1530, 1565, 1810, 1814, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841, 2880, to produce at the trial for the use of Defendants in Error the Treasurer's report, expense accounts and memoranda of disbursements of their funds.

12. The Circuit Court of Appeals erred in holding that unincorporated societies and their officers could be compelled to produce documents, papers and writings which were sought for the purpose of proving them guilty of a criminal conspiracy under the Anti-Trust Laws.

13. The Circuit Court of Appeals erred in deciding that the testimony of William Green, Secretary-Treasurer of the United Mine Workers of America, that certain printed books purporting to contain the proceedings of the joint conferences of operators and union miners in the Central Competitive Field were "Verbatum Reports of the Arguments, Discussions and Propositions of What Took Place at Their Conferences, and that the Association caused them to be printed and the printed volumes produced were the ones that came back from the printer," constituted a proper authentication of the books and sufficiently authorized Defendants in Error to read extracts from them as original evidence showing what was said by the parties quoted in said books.

14. The Circuit Court of Appeals erred in sustaining the ruling of the District Court in overruling the motions of the Defendants, the United Mine Workers of America, District No. 21 and the Local Unions, duly submitted in writing at the conclusion of the introduction of evidence, being the motion to the Court to instruct the jury to return a verdict for said Defendants and each of them.

15. The Circuit Court of Appeals erred in sustaining the District Court in overruling the motions of P. R. Stewart and each and every other individual Defendant named in the caption, submitted in writing at the conclusion of the introduction of evidence, being the motion to the Court to instruct the jury to return a verdict for said individual Defendants and each of them.

16. The Circuit Court of Appeals erred in refusing to reverse the judgment of the District Court for failing to give written instructions numbered 1 to 10 requested by the United Mine Workers of America, which instructions were respectively to the effect that each of the Defendants in Error had failed to establish a cause of action against the United Mine Workers of America and that the verdict must be for the Plaintiffs in Error against each of said respective Defendants in Error.

17. The Circuit Court of Appeals erred in refusing to reverse the judgment of the District Court for failing to give written instructions numbered 1 to 10 requested by District No. 21, which instructions were respectively to the effect that each of the Defendants in Error had failed to establish a cause of action against said District No. 21

and that the verdict must be for the Plaintiffs in Error against each of said respective Defendants in Error.

18. The Circuit Court of Appeals erred in refusing to reverse the judgment of the District Court because of its failure to give the following instruction, requested by the Defendants:

"I instruct you that the character and purposes of the defendant associations are lawful as expressed in their constitutions; and I further instruct you that the officers of the United Mine Workers of America had no right to pervert the association to unlawful purposes, or to participate in the unlawful conduct in the name of said United Mine Workers of America, and that any such perversion of the purposes of said association, or any unlawful conduct on the part of its officers in relation to the alleged destruction of the plaintiff's property, would not bind the United Mine Workers of America, unless you further find by a fair preponderance of the evidence that the entire membership of the said United Mine Workers of America had authorized such unlawful conduct on the part of its officers, or with full knowledge of the facts had ratified their illegal conduct before the institution of this suit."

19. The Circuit Court of Appeals erred in not reversing the District Court for its failure to give the following instruction requested by the Defendants:

"It is the law that an act which a corporation or association cannot lawfully do in the first instance cannot be ratified by its officers or agents. Such an act is incapable of ratification, and the association or corporation is not bound by any attempted ratification thereof by its officers or agents."

20. The Circuit Court of Appeals erred in not reversing the District Court for its failure to give the following instruction requested by the Defendants:

"If you find from a fair preponderance of the evidence that the Districts and Locals are agents of the United Mine Workers of America for the purpose of conducting local strikes under their own direction, then I charge you that such strikes are presumed to be intended to be conducted by lawful means and that if in the conduct of the strike in question the powers reposed in said district and locals were perverted, and that they or any of their members or officers engaged in an unlawful conspiracy to interfere with the plaintiffs' production of and interstate commerce in coal, the United Mine Workers of America would not be liable unless its entire membership had with full knowledge of the facts and before the institution of this suit acquiesced in and ratified such unlawful perversion and illegal conspiracy, but only such members can be held responsible as the evidence may show to have participated or acquiesced in such perversion and illegal conspiracy, or to have ratified the same with full knowledge of the facts before the institution of this suit."

21. The Circuit Court of Appeals erred in sustaining the following instruction given by the District Court after two days deliveration by the jury and its announcement in open court that they could not agree on a verdict:

"Now Gentlemen of the Jury, this is a pretty serious situation and I want to say to you that the court has no thought at all of discharging you. You were sworn upon your oaths to do your duty as jurors. In the opinion of the court there is no reason on earth why reasonable men with a due regard for right, and each having due respect and consideration for the other's opinion, should not arrive at a conclusion in this case. What would be a fortune to either of you, or I, has already been spent and a failure to render justice in this and others is what brings the courts into contempt. I say this to you that you may understand the seriousness of your situation. The facts in this case have got to be found by a jury. Another jury will have no better opportunity of knowing these facts than you, and it is your duty as jurors under your oaths to get together and return a verdict.

"Now the Federal Courts recognize the right of this court under these circumstances to say what this court believes in relation to the facts in this case, and you are advised that this court is of the opinion that the facts in this case, justify you in the conclusion overwhelmingly that it was the policy and therefore the agreement for years of this national organization to prevent mining of non-union coal for the unlawful purposes named in this complaint that it might not come into competition with union mined coal; that there is no question in this Court's mind but that that strike was ordered down there for that purpose to prevent the mining of non-union coal in these plaintiffs' mines; that the strike was called by those who were the instrumentality of the greater organization, the general organization, the defendants, and their act was its act, and that they put into motion the force that destroyed this property, and that that force was put into motion for the purpose of preventing the mining of that coal, the shipping of that coal, the running of these mines. Why, this court has not a thought that there would ever have been any trouble there if it had not been for the prevention of the mining of non-union coal. Now, that is the judgment of this court and if it were my duty to decide it I would decide it here. Now you are not bound by my opinion. I have a right to give you my judgment however, you are the sole and exclusive judges of the facts and it is for you to determine these issues of fact independent of my judgment and this court believes you ought to determine it and under your oaths as jurors agree upon a verdict.

"If there is any question about the law on the responsibility for this, responsibility of the greater organization, that is for the higher court to say, but you cannot reach it until you have done your duty—you are the stumbling block in the way and this whole time is wasted. Now after I have said what I have, I am going to say that I have no thought of discharging you; you must return a verdict in this case. You are amply qualified to do the right thing as you see

it, and as it should be done and the thought of this court is that no other jury will ever be better prepared to render a verdict than you and to separate without a verdict will be to have rendered all this expense of all this trial for naught—make it necessary to go all over the ground again with no better opportunity on the part of the jury in the box when it has all been done, to do the right thing than you have now, no advantage—none in the world. You see the importance of the situation and I now urge you with the idea of doing the right thing and putting this matter in that condition that a trial of the case with a legitimate end, in which the verdict of the jury will place it. And with a knowledge and feeling of responsibility and that that responsibility is with you, that you now return to your jury room and bring in a verdict."

22. The Circuit Court of Appeals erred in sustaining the action of the District Court in overruling the exception of Plaintiffs in Error to the form of the verdict and in accepting the verdict in the following form:

"We, the jury, find the issues in favor of the plaintiffs and against the defendants and assess plaintiffs' actual damages at Two Hundred Thousand Dollars.

JOHN DUNNIGAN,
Foreman."

23. The Circuit Court of Appeals erred in sustaining the District Court in its action in refusing to require the jury to apportion the damages among the Plaintiffs (Defendants in Error).

24. The Circuit Court of Appeals erred in its decision that the Defendants in Error were entitled to recover a verdict in gross sum.

Wherefore the Plaintiffs in Error separately and severally pray that the judgment of the Circuit Court of Appeals for the Eighth Circuit affirming the judgment of the District Court for the Western District of Arkansas, Fort Smith Division, rendered in this case, be in all things reversed, and for such other relief as may be proper in the premises.

HENRY WARRUM,
WEBB COVINGTON,
G. L. GRANT,
Attorneys for Plaintiffs in Error.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 30, 1920.

(*Cost Bond on Writ of Error from Supreme Court U. S.*)

Know All Men by these Presents: That we, the United Mine Workers of America, and District Twenty one of the United Mine Workers of America, and John P. White, P. R. Stewart, John P. White as President of the United Mine Workers of America, P. R. Stewart, P. R. Stewart as President of the United Mine Workers of

America, District number twenty-one; William McLachlin, William McLachlin as President of District twenty one of the United Mine Workers of America; Tom King, and Tom King as Board Member of the United Mine Workers of America; Jess Edwards; Charley Farley; Edward Cunningham, Edward Cunningham as President of District Twenty One of the United Mine Workers of America; Frank J. Hays; Frank J. Hays as Vice President of the United Mine Workers of America; William Green; William Green as Secretary-Treasurer of the United Mine Workers of America; Joe Overman, O. A. Brooke, Dr. W. C. Chambers; Tom Kiger, Mike Cisco, Charles Hendry, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, and Local Unions numbered 340, and 374 and 560 and 586 and 1130 and 1526 and 1530 and 1565 and 1810 and 1814 and 1842 and 1912 and 1934 and 2027 and 2053 and 2110 and 2160 and 2494 and 2766 and 2769 and 2770 and 2772 and 2841 and 2880 of the United Mine Workers of America and M. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, Joe Kervillas, Wm. Rodden, Charles Blackburn, Joe Lanier, Albert Hunter, Rich Handlin, Scott Adams, Frank Petty, Claude Litchford, John Litchford, Otto Alimen, Carey Crumpton, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Willis Congo, Leslie Congo, Bud Congo, Charles McKowen, J. W. Howard, Bud Williams, Wm. Price, Peter McMullen, Jr., John Murray, John T. W. Davis, Brock Smith, Ed Kehee, as Principals, and the Ætna Casualty and Surety Company, of Hartford, Connecticut, as Surety, are held and firmly bound unto the Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard, Receivers, and H. P. Hilliard and C. H. Finley, Receivers of each and all of said coal companies, in the penal sum of Five Thousand Dollars ($5,000.00) to the payment of which, well and truly to be made and done, we bind ourselves, our heirs, executors, administrators, successors or assigns, jointly and severally firmly by these presents:

Sealed with our seals and dated this the Twenty-fourth day of January, A. D. 1920.

The condition of the above obligation is such, that, whereas, heretofore, to-wit: on the ninth day of June, 1919, the said Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard, as Receivers, and C. H. Finley and H. P. Hilliard as receivers of each and all of said coal companies, in the Circuit Court of Appeals of the United States for the Eighth Circuit, recovered a judgment against

the said principals, hereinbefore named, in damages and costs of suit, etc., from which said judgment of said Court the said principals hereinbefore named obtained a writ of error from said Court citing and admonishing the said defendants in error to appear in the Supreme Court of the United States at the City of Washington, D. C., thirty days from and after the date of said citation, and praying for a reversal of said judgment.

Now, if the said principals hereinbefore named, shall and will duly prosecute said writ of error to effect, and answer all costs if they fail to make good their plea, then the above obligation to be null and void; otherwise to remain in full force and virtue in law.

UNITED MINE WORKERS OF AMERICA,
[SEAL.] By WM. GREEN,
Secretary-Treasurer, and
By JOHN L. LEWIS,
Acting President.
DISTRICT NUMBER TWENTY ONE OF THE UNITED MINE WORKERS OF AMERICA,
[SEAL.] By E. F. ROSS,
Secretary-Treasurer, and
By JOHN L. BRITTON,
Vice President.
THE ÆTNA CASUALTY AND SURETY COMPANY,
By FRANK MEAD,
Resident Vice-President.

Attest:
[SEAL.] FRANCIS X. McGRATH,
Resident Asst. Secretary.

JOHN P. WHITE, [SEAL.]
P. R. STEWART, [SEAL.]
WILLIAM McLACHLIN, [SEAL.]
TOM KING, [SEAL.]
JESS EDWARDS, [SEAL.]
CHARLEY FARLEY, [SEAL.]
EDWARD CUNNINGHAM, [SEAL.]
FRANK J. HAYS, [SEAL.]
WILLIAM GREEN, [SEAL.]
JOE OVERMAN, [SEAL.]
O. A. BROOK, [SEAL.]
DR. W. C. CHAMBERS, [SEAL.]
TOM KIGER, [SEAL.]
MIKE CISCO, [SEAL.]
CHARLEY HENDRY, [SEAL.]
JIM LEE, [SEAL.]
JAKE THOMPSON, [SEAL.]
GEORGE BURNETT, [SEAL.]
PINK DUNN, [SEAL.]

JIM McNAMARA, [SEAL.]
JOHN T. W. DAVIS, [SEAL.]
BROCK SMITH, [SEAL.]
ED KEHEE, [SEAL.]
PETE McMULLEN, [SEAL.]
JOHN MASTELL, [SEAL.]
JAMES SLANKARD, [SEAL.]
M. B. APPLEBY, [SEAL.]
BRUCE JORDAN, [SEAL.]
WHIT MILLER, [SEAL.]
ED BAKER, [SEAL.]
H. S. TREADWAY, [SEAL.]
G. G. DANIELS, [SEAL.]
JOHN TURNIPSEED, [SEAL.]
LEWIS EVANS, [SEAL.]
JOE CONEODA, [SEAL.]
B. TROUT, [SEAL.]
JOE ASSOLA, [SEAL.]
JOE KERVILLAS, [SEAL.]
WM. RODDEN, [SEAL.]
CHARLES BLACKBURN, [SEAL.]
JOE LANIER, [SEAL.]
ALBERT HUNTER, [SEAL.]
RICH HANDLIN, [SEAL.]
SCOTT ADKINS, [SEAL.]
FRANK PETTY, [SEAL.]
CLAUD LITCHFORD, [SEAL.]
JOHN LITCHFORD, [SEAL.]
OTTO ALIMEN, [SEAL.]
CAREY CRUMPTON, [SEAL.]
SAM WOOTEN, [SEAL.]
MARION HULSEY, [SEAL.]
MAJE HULSEY, [SEAL.]
TOM WATSON, [SEAL.]
DERWOOD WARREN, [SEAL.]
HARRY BURKETT, [SEAL.]
WILLIS CONGO, [SEAL.]
LESLIE CONGO, [SEAL.]
BUD CONGO, [SEAL.]
CHARLES McKOWEN, [SEAL.]
J. W. HOWARD, [SEAL.]
BUD WILLIAMS, [SEAL.]
WM. PRICE, [SEAL.]
PETER McMULLEN, Jr., [SEAL.]
JOHN MURRAY, [SEAL.]
LOCAL UNION 340 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 374 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]

LOCAL UNION 560 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 586 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 1130 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 1526 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 1530 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 1565 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 1810 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 1814 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 1842 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 2053 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 1934 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 2027 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 2053 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 2110 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 2160 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 2494 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 2766 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]

LOCAL UNION 2769 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 2770 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 2772 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 2841 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
LOCAL UNION 2880 OF THE UNITED MINE WORKERS OF AMERICA, [SEAL.]
By G. L. GRANT,
Attorney.

Approved this 30th day of January, 1920.
WALTER H. SANBORN,
Senior U. S. Circuit Judge.

Resolution Authorizing Execution of Bonds.

Whereas, the 26th consecutive and third Biennial Convention of the United Mine Workers of America, at Indianapolis, Indiana, on January 26th, 1918, adopted a resolution that the Organization of the United Mine Workers of America should "file bond and take an appeal to the higher Court and if needs be to the Supreme Court of the United States" in the case of the Coronado Coal Company et al. vs. the United Mine Workers of America, et al., in which judgment was rendered against the Organization in the United States District Court for the Western District of Arkansas; and,

Whereas, by said resolution of the said Convention "the officers of our International Union be and are hereby instructed to make such arrangements as may be necessary to file bond and to appeal to the higher Courts"; and,

Whereas, we are advised by counsel that a resolution should be adopted by the International Executive Board of said United Mine Workers of America authorizing some officer or officers of the International Organization to execute the bond or bonds required in connection with a writ of error from the Supreme Court of the United States to the Circuit Court of Appeals for the Eighth Circuit in said cause:

Now, therefore, be it resolved by the Executive Board of the United Mine Workers of America that John L. Lewis, Acting President, and William Green, Secretary-Treasurer of the International Union, United Mine Workers of America, be and they or either of them are hereby authorized and directed to execute and sign any bonds required in connection with such writ of error, in the Name of the United Mine Workers of America.

We hereby certify that at a meeting of the International Executive Board of the United Mine Workers of America, held January 27" 1920, at the City of Washington, D. C., the foregoing resolution was introduced, read, moved, seconded and unanimously adopted.

Witness our hands and official seals this the 27" day of January, 1920.

JOHN L. LEWIS,
Acting President.

[SEAL.] WM. GREEN,
Secretary-Treasurer.

UNITED STATES OF AMERICA,
District of Columbia:

William Green, being duly sworn, says on oath that he is the Secretary-Treasurer of the United Mine Workers of American and as such is custodian of the minutes of the Executive Board; that at a meeting of the Executive Board of said United Mine Workers of America, held January 27" 1920, at the City of Washington, D. C., the above resolution was adopted; that at the 26th Consecutive Convention of the United Mine Workers of America, held at Indianapolis, on January 26th, 1918, a resolution was unanimously adopted authorizing the officers of said Union to take an appeal in the case above referred to, and if necessary, to the Supreme Court of the United States, "and to make such arrangements as might be necessary to file bond" in said cause; that he has charge of the seal of said Organization which he has caused to be attached to the above certificate; and that he, as Secretary-Treasurer, and John L. Lewis, as Acting President, have executed the bond in the cause above referred to, in the name of the United Mine Workers of America, under the authority and direction of the said Convention and said Executive Board.

WM. GREEN.

Subscribed and sworn to before me this 28" day of January, 1920.

[SEAL.] WILLIAM D. SULLIVAN,
Notary Public.

My Commission Expires Oct. 21, 1924.

Resolution Authorizing the Execution of Bonds.

Office of United Mine Workers of America,

District Number Twenty One.

Muskogee, Oklahoma, January 24, 1920.

Whereas, in the case of the Cronado Coal Company, et al., vs. United Mine Workers of America, and District Twenty One of the United Mine Workers of America, et al., in the United States District Court, Western District of Arkansas, Fort Smith Division, a judgment was rendered against the said United Mine Workers of America

and District Number Twenty One of the United Mine Workers of America; and,

Whereas, the United Mine Workers of America and District Number Twenty One of the United Mine Workers of America gave a bond and took an appeal from said judgment on writ of error to the Circuit Court of Appeals for the Eighth Circuit of the United States; and,

Whereas, the said United States Circuit Court of Appeals has affirmed said judgment and it is deemed advisable and proper to sue out a writ of error from the Supreme Court of the United States to the said United States Circuit Court of Appeals for a review of said cause and the decisions of said Court; and,

Whereas, supersedeas and costs bonds must be given in connection with said writ of error;

Now, Therefore, be it resolved by the Executive Board of District Twenty One of the United Mine Workers of America, in meeting assembled for general purposes and held at the offices of the said District Twenty One of the United Mines Workers of America, on this the 24th day of January, 1920, that John L. Britton the Vice President, and E. F. Ross, the Secretary-Treasurer, of said District Number Twenty One of the United Mine Workers of America, be and they or either of them are hereby authorized and empowered and directed to execute the required supersedeas and costs bonds in the name of the District, in connection with the aforesaid writ of error, and to do any and all things that may be required or necessary in carrying said cause to the Supreme Court of the United States.

I, E. F. Ross, Secretary-Treasurer of District Twenty One of the United Mine Workers of America, do hereby certify that the foregoing resolution was at a meeting held for general p poses, by the Executive Board of said District at the offices of the said District in the City of Muskogee, Oklahoma, on the 24th day of January, 1920, duly introduced, considered and unanimously adopted.

Witness my hand and the official seal of said District Number Twenty One of the United Mine Workers of America on this the 24th day of January, 1920.

[SEAL.]

E. F. ROSS,
Secretary-Treasurer.

STATE OF OKLAHOMA,
County of Muskogee, ss:

E. F. Ross, being first duly sworn, on oath states that he is Secretary-Treasurer pf District Twenty One of the United Mine Workers of America; that as such Secretary Treasurer he is the custodian of the records and minutes of the meetings of the Executive Board of said District Twenty-one; that John L. Britton is the duly elected, qualified and acting Vice President of said District Twenty one; that the said Executive Board of said District Twenty-one of the United Mine Workers of America held a meeting for general purposes at its offices in the City of Muskogee, State of Oklahoma, on the 24th

day of January, 1920; that at said general meeting of said Board the attached and foregoing resolution authorizing, empowering and directing the Vice President, John L. Britton, and the Secretary-Treasurer, E. F. Ross, to execute and sign the supersedeas and cost bonds in writ of error in the case of United Mine Workers of America, et al., vs. The Coronado Coal Company, et al., in the Circuit Court of Appeals of the United States, Eighth Circuit, was introduced, considered, and unanimously adopted; that the said John L. Britton, as Vice-President, and the said E. F. Ross, as Secretary-Treasurer, have, pursuant to said authority, executed the bonds referred to, in the name of the United Mine Workers of America District Twenty One.

E. F. ROSS.

Subscribed and sworn to before me on this the 24 day of January, 1920.

[SEAL.] RALPH P. BROOKS,
Notary Pub.

(Certificates of Authority of Resident Vice-President and Resident Assistant Secretary attached to original Bond.)

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 30, 1920.

(*Supersedeas Bond on Writ of Error from Supreme Court U. S.*)

Know all Men by these Presents: That we, United Mine Workers of America, an unincorporated association, and District Twenty One of the United Mine Workers of America, an unincorporated association, as principals, and the Ætna Casualty and Surety Company, of Hartford, Connecticut, as Surety, are held and bound, jointly and severally firmly unto the Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard, Receivers, and C. H. Finley and H. P. Hilliard as receivers for each and all of said companies, in the full and just sum of Eight Hundred Thousand Dollars ($800,000.00) to be paid to the said Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company and Prairie Creek Coal Mining Company, each and all by H. P. Hilliard and C. H. Finley, Receivers, and H. P. Hilliard and C. H. Finley as receivers, as aforesaid, their heirs, executors, administrators, successors or assigns, to which payment well and truly to be made, we bind ourselves, our heirs, executors, ad-

ministrators, successors or assigns, jointly and severally by these presents.

Sealed with our seals and dated this twenty-fourth day of January, A. D. 1920.

The Condition of the above obligation is as follows:

Whereas, on the ninth day of June, 1919, in the United States Circuit Court of Appeals, of the Eighth Circuit, in a cause depending in said Court between the United Mine Workers of America and District Twenty One of the United Mine Workers of America, and P. R. Stewart, Fred Holt, John P. White, as President of the United Mine Workers of America; P. R. Stewart, as President of the United Mine Workers of America, District Twenty One; James Mullen, National Executive Board Member, United Mine Workers of America; William McLachlin; William McLachlin, as President of the United Mine Workers of America, District Twenty-One; Tom King; Tom King, as Board Member of the United Mine Workers of America; Jess Edwards; Charley Farley, Edward Cunningham, and Edward Cunningham, as President of District Twenty One United Mine Workers of America; Frank J. Hays, Frank J. Hays as Vice President of the United Mine Workers; William Green, and William Green as Secretary-Treasurer of the United Mine Workers of America; Joe Overman; O. A. Brooke, Dr. W. C. Chambers; Tom Kiger; Mike Cisco; Charles Hendry; Jim Lee; Jake Thompson; George Burnett; Pink Dunn; Jim McNamara; Pete McMullen; John Mastell; James Slankard; Local Unions numbers 34, and 374 and 560 and 586 and 1130 and 1159 and 1526 and 1530 and 1565 and 1810 and 1814 and 1824 and 1842 and 1912 and 1934 and 2027 and 2053 and 2110 and 2160 and 2316 and 2494 and 2766 and 2769 and 2770 and 2772 and 2841 and 2880 of the United Mine Workers of America; M. B. Appleby; Bruce Jordan; Whit Miller; Ed Baker; H. S. Treadway; G. G. Daniels; John Turnipseed; Lewis Evans; Joe Coneoda; B. Trout; Joe Assola; Joe Kervillas; William Rodden; Charles Blackburn; Joe Lanier; Albert Hunter, Rich Handlin; Scott Adkins; Frank Petty; Claude Lirchford, John Litchford; Otto Allmen; Carey Crumpton; Sam Wooten; Marion Hulsey; Maje Hulsey; Tom Watson; Derwood; Harry Birkett; Willis Congo; Leslie Congo; Bud Congo; Charles McKowen; J. W. Howard; Bud Williams; Wm. Price; Peter McMullen, Jr.; John Murray; John T. W. Davis; Brock Smith; Ed Kehee, Plaintiffs in Error, and the Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard, Receivers, and C. H. Finley and H. P. Hilliard, Receivers, Defendants in Error, judgment was rendered against the said plaintiffs in error, and the said plaintiffs in error, to-wit: The United Mine Workers of America, and District Twenty One of the United Mine Workers of America, have obtained a writ of error of the said Court to reverse the judgment in the aforesaid action, and a citation directed to the

said Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company and C. H. Finley and H. P. Hilliard, as receivers as aforesaid, citing and admonishing them to appear in the Supreme Court of the United States at the City of Washington, D. C., thirty days from and after the date of said citation.

Now, Therefore, the condition of the above obligation is such that if the said United Mine Workers of America and District Twenty One of the United Mine Workers of America shall prosecute their said writ of error to effect and answer all damages and costs if they fail to make good their plea, then the above obligation to be void, else to remain in full force and effect.

Sealed and Delivered in the Presence of:

UNITED MINE WORKERS OF AMERICA,

[SEAL.] By WM. GREEN,
Secretary-Treasurer,

By JOHN L. LEWIS,
Acting President.

DISTRICT TWENTY ONE OF THE UNITED MINE WORKERS OF AMERICA,

[SEAL.] By E. F. ROSS,
Secretary-Treasurer,

By JOHN L. BRITTON,
Vice President.

THE ÆTNA CASUALTY AND SURETY COMPANY,

By FRANK MEAD,
Resident Vice-President.

Attest:

[SEAL.] FRANCIS X. McGRATH,
Res. Asst. Secretary.

Resolution Authorizing the Execution of Bonds.

Office of United Mine Workers of America,

District Number Twenty One.

Muskogee, Oklahoma, January 24, 1920.

Whereas, in the case of the Coronado Coal Company, et al., vs. United Mine Workers of America, and District Twenty One of the United Mine Workers of America, et al., in the United States District Court, Western District of Arkansas, Fort Smith Division, a judgment was rendered against the said United Mine Workers of America and District Number Twenty One of the United Mine Workers of America; and,

Whereas, the United Mine Workers of America and District Number Twenty One of the United Mine Workers of America gave a bond and took an appeal from said judgment on writ of error to the Circuit Court of Appeals for the Eighth Circuit of the United States, and,

Whereas, the said United States Circuit Court of Appeals has affirmed said judgment and it is deemed advisable and proper to sue out a writ of error from the Supreme Court of the United States to the said United States Circuit Court of Appeals for a review of said cause and the decisions of said Court; and,

Whereas, supersedeas and costs bonds must be given in connection with said writ of error;

Now, Therefore, be it resolved by the Executive Board of District Twenty One of the United Mine Workers of America, in meeting assembled for general purposes and held at the offices of the said District Twenty One of the United Mine Workers of America, on this the 24th day of January, 1920, that John L. Britton the Vice President, and E. F. Ross, the Secretary-Treasurer, of said District Number Twenty One of the United Mine Workers of America, be and they or either of them are hereby authorized and empowered and directed to execute the required supersedeas and costs bonds in the name of the District, in connection with the aforesaid writ of error, and to do any and all things that may be required or necessary in carrying said cause to the Supreme Court of the United States.

I, E. F. Ross, Secretary-Treasurer of District Twenty One of the United Mine Workers of America, do hereby certify that the foregoing resolution was at a meeting held for general purposes, by the Executive Board of said District at the offices of the said District in the City of Muskogee, Oklahoma, on the 24th day of January, 1920, duly introduced, considered and unanimously adopted.

Witness my hand and the official seal of said District Number Twenty One of the United Mine Workers of America on this the 24th day of January, 1920.

[SEAL.]

E. F. ROSS,
Secretary-Treasurer.

STATE OF OKLAHOMA,
County of Muskogee, ss:

E. F. Ross, being first duly sworn, on oath states that he is Secretary-Treaurer pf District Twenty One of the United Mine Workers of America; that as such Secretary-Treasurer he is the custodian of the records and minutes of the meetings of the Executive Board of said District Twenty-one; that John L. Britton is the duly elected, qualified and acting Vice President of said District Twenty one; that the said Executive Board of said District Twenty-one of the United Mine Workers of America held a meeting for general purposes at its offices in the City of Muskogee, State of Oklahoma, on the 24th day of January, 1920; that at said general meeting of said Board the attached and foregoing resolution authorizing, empower-

ing and directing the Vice President, John L. Britton, and the Secretary-Treasurer, E. F. Ross, to execute and sign the supersedeas and cost bonds in writ of error in the case of United Mine Workers of America, et al., vs. The Coronado Coal Company, et al., in the Circuit Court of Appeals of the United States, Eighth Circuit, was introduced, considered, and unanimously adopted; that the said John L. Britton, as Vice President, and the said E. F. Ross, as Secretary-Treasurer, have, pursuant to said authority, executed the bonds referred to, in the name of the United Mine Workers of America District Twenty One.

E. F. ROSS.

Subscribed and sworn to before me on this the 24 day of January, 1920.

[SEAL.] RALPH P. BROOKS,
Notary.

Resolution Authorizing Execution of Bonds.

Whereas, the 26th consecutive and third Biennial Convention of the United Mine Workers of America, at Indianapolis, Indiana, on January 26th, 1918, adopted a resolution that the Organization of the United Mine Workers of America should "file bond and take an appeal to the higher Court and if needs be to the Supreme Court of the United States" in the case of the Coronado Coal Company et al. vs. the United Mine Workers of America, et al., in which judgment was rendered against the Organization in the United States District Court for the Western District of Arkansas; and,

Whereas, by said resolution of the said Convention "the officers of our International Union be and are hereby instructed to make such arrangements as may be necessary to file bond and to appeal to the higher Courts;" and,

Whereas, we are advised by counsel that a resolution should be adopted by the International Executive Board of said United Mine Workers of America authorizing some officer or officers of the International Organization to execute the bond or bonds required in connection with a writ of error from the Supreme Court of the United States to the Circuit Court of Appeals for the Eighth Circuit in said cause:

Now, therefore, be it resolved by the Executive Board of the United Mine Workers of America that John L. Lewis, Acting President, and William Green, Secretary-Treasurer of the International Union, United Mine Workers of America, be and they or either of them are hereby authorized and directed to execute and sign any bonds required in connection with such writ of error, in the Name of the United Mine Workers of America.

We hereby certify that at a meeting of the International Executive Board of the United Mine Workers of America, held January 27th, 1920, at the City of Washington, D. C., the foregoing resolution was introduced, read, moved, seconded and unanimously adopted.

Witness our hands and official seals this the 27" day of January, 1920.

JOHN L. LEWIS,
Acting President.

[SEAL.] WM. GREEN,
Secretary-Treasurer.

UNITED STATES OF AMERICA,
District of Columbia:

William Green, being duly sworn, says on oath that he is the Secretary-Treasurer of the United Mine Workers of America and as such is custodian of the minutes of the Executive Board; that at a meeting of the Executive Board of said United Mine Workers of America, held January 27" 1920, at the City of Washington, D. C., the above resolution was adopted; that at the 26th Consecutive Convention of the United Mine Workers of America, held at Indianapolis, on January 26th, 1918, a resolution was unanimously adopted authorizing the officers of said Union to take an appeal in the case above referred to, and if necessary, to the Supreme Court of the United States, "and to make such arrangements as might be necessary to file bond" in said cause; that he has charge of the seal of said Organization which he has caused to be attached to the above certificate; and that he, as Secretary-Treasurer, and John L. Lewis, as Acting President, have executed the bond in the cause above referred to, in the name of the United Mine Workers of America, under the authority and direction of the said Convention and said Executive Board.

WM. GREEN.

Subscribed and sworn to before me this the 28th day of January, 1920.

[SEAL.] WILLIAM D. SULLIVAN,
Notary Public.

My Commission Expires October 21, 1924.

Approved this 30th day of January, 1920.

WALTER H. SANBORN,
Senior U. S. Circuit Judge.

(Certificates of Authority of Resident Vice-President and Resident Assistant Secretary attached to original Bond.)

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jan. 30, 1920.

Writ of Error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the Honorable the Judges of the United States Circuit Court of Appeals for the Eighth Circuit, Greeting:

Because, in the records and proceedings, as also in the rendition of the judgment of a plea which is in the said United States Circuit Court of Appeals for the Eighth Circuit, before you, at the May Term, 1919, thereof, between the United Mine Workers of America, et al., Plaintiffs in Error, and the Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. B. Hilliard, Receivers, and C. H. Finley and H. B. Hilliard, Receivers, Defendants in Error, a manifest error hath happened, to the great damage of the said Plaintiffs in Error, as by their complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the said record and proceedings aforesaid at the City of Washington, D. C., and filed in the office of the Clerk of the Supreme Court of the United States, within thirty days from the date hereof, to the end that the record and proceedings aforesaid being inspected, the Supreme Court of the United States may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable Edward D. White, Chief Justice of the United States, this thirtieth day of January in the year of our Lord one thousand nine hundred and twenty.

Issued at office in the City of St. Louis, Missouri, with the seal of the United States Circuit Court of Appeals for the Eighth Circuit, and dated as aforesaid.

[Seal United States Circuit Court of Appeals, Eighth Circuit.]

E. E. KOCH,
Clerk of the United States Circuit Court of Appeals for the Eighth Circuit.

Allowed by
WALTER H. SANBORN,
Senior U. S. Circuit Judge for the Eighth Circuit.

[Endorsed:] U. S. Circuit Court of Appeals, Eighth Circuit. No. 5154. United Mine Workers of America, et al., Plaintiffs in Error, vs. Coronado Coal Co., et al. Writ of Error from Supreme Court, U. S. Filed Jan. 30, 1920. E. E. Koch, Clerk.

Return to Writ.

UNITED STATES OF AMERICA,
Eighth Circuit, ss:

In obedience to the command of the within writ, I herewith transmit to the Supreme Court of the United States, a duly certified transcript of the record and proceedings in the within entitled cause, with all things concerning the same.

In Witness Whereof, I hereunto subscribe my name and affix the seal of the United States Circuit Court of Appeals for the Eighth Circuit.

[Seal United States Circuit Court of Appeals, Eighth Circuit.]

E. E. KOCH,
Clerk of the United States Circuit Court of Appeals for the Eighth Circuit.

UNITED STATES OF AMERICA, *ss:*

To the Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. B. Hilliard, Receivers, and C. H. Finley and H. B. Hilliard, Receivers, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States at the City of Washington, D. C., thirty days from and after the day this citation bears date, pursuant to a writ of error filed in the office of the Clerk of the United States Circuit Court of Appeals for the Eighth Circuit, wherein the United Mine Workers of America, District No. 21 of the United Mine Workers of America, John P. White, P. R. Stewart, Fred Holt, John P. White as President of the United Mine Workers of America, P. R. Stewart as President of the United Mine Workers of America, District No. 21, William McLaughlin, William McLaughlin as President of United Mine Workers of America District 21, Tom King, Tom King as Board Member of United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham, Edward Cunningham as President of District 21 United Mine Workers of America, Frank J. Hayes, Frank J. Hayes as Vice-President of United Mine Workers of America, William Green, William Green as Secretary-Treasurer of the United Mine Workers of America, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco,

Charles Hendry, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, and Local Unions numbered 340, 560, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841, 2880, 374 and 586, of the United Mine Workers of America, A. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, Joe Kervillas, Wm. Redden, Charles Blackburn, Joe Lanier, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claude Litchford, John Litchford, Otto Alimen, Cary Crumpton, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Burkett, Willis Congo, Leslie Congo, Bud Congo, Charles McKown, J. W. Howard, Bud Williams, Wm. Price, Peter McMullen, Jr., John Murry, John T. W. Davis, Brock Smith, Ed. Kehee, are Plaintiffs in Error, and you are Defendants in Error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in Error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable Walter H. Sanborn, Senior U. S. Circuit Judge in and for the Eighth Circuit, this thirtieth day of January, A. D. 1920.

WALTER H. SANBORN,
Senior U. S. Circuit Judge for the Eighth Circuit.

I hereby accept service of the foregoing citation and waive any further service upon the defendants in error, this 31st day of January, 1920.

JAMES B. McDONOUGH,
Attorney for Defendants in Error.

[Endorsed:] U. S. Circuit Court of Appeals, Eighth Circuit. No. 5154. United Mine Workers of America, et al., Plaintiffs in Error, vs. Coronado Coal Company, et al. Citation on Writ of Error from Supreme Court, U. S. Filed Feb. 2, 1920. E. E. Koch, Clerk.

(*Clerk's Certificate.*)

United States Circuit Court of Appeals, Eighth Circuit.

I, E. E. Koch, Clerk of the United States Circuit Court of Appeals for the Eighth Circuit, do hereby certify that the foregoing transcript composed of five volumes, Volume I consisting of pages 1 to 838, inclusive, Volume II consisting of pages 839 to 1713, inclusive, Volume III consisting of pages 1715 to 2597, inclusive, Volume IV consisting of pages 2599 to 3411, inclusive, and Volume V consisting of pages 3412 to 3486, inclusive, contains the transcript of the record from the District Court of the United States for the Western District of Arkansas as prepared and printed under the rules of the United States Circuit Court of Appeals for the Eighth Circuit, under the

supervision of its Clerk, and full true and complete copies of all the pleadings, record entries and proceedings, including the opinion had and filed in the United States Circuit Court of Appeals, except the full captions, titles, and endorsements omitted in pursuance of the rules of the Supreme Court of the United States, in a certain cause in said Circuit Court of Appeals, wherein the United Mine Workers of America, et al., were Plaintiffs in Error, and the Coronado Coal Company, et al., were Defendants in Error, No. 5154, as full, true and complete as the originals of the same remain on file and of record in my office.

I do further certify that the original writ of error with the Clerk's return endorsed thereon and the original citation with acceptance of service endorsed thereon are hereto attached and herewith returned.

In Testimony Whereof, I hereunto subscribe my name and affix the seal of the United States Circuit Court of Appeals for the Eighth Circuit, at office in the City of St. Louis, Missouri, this third day of February, A. D. 1920.

[Seal United States Circuit Court of Appeals, Eighth Circuit.]

E. E. KOCH,
Clerk of the United States Circuit Court of Appeals for the Eighth Circuit.

Endorsed on cover: File No. 27,462. U. S. Circuit Court Appeals, 8th Circuit. Term No. 239. United Mine Workers of America et al., plaintiffs in error, vs. Coronado Coal Company et al. Filed February 4th, 1920. File No. 27,462.